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NATIONAL ATHLETIC TRAINERS' ASSOCIATION

Are You Adequately Insured?

Examining key policies in appropriate level of protection

BY KIM DIGGS

As an athletic trainer, there are numerous tasks that can go awry and lead to litigation. As the athletic training scope of practice continues to evolve, it's paramount to the career and livelihood of each athletic trainer to secure proper insurance coverage – even if it means a personal liability policy must be purchased out of pocket to fill gaps in coverage provided by the employer.

There are many aspects to consider when assessing non-negotiable coverage.

Companies and institutions often possess general and professional liability policies. This offers legal representation and financial assistance in the event of a suit filed against the employer. Heather Ingledue, senior associate at Mercer, said it is a misconception that this type of coverage alone will always protect an athletic trainer in the event of misconduct or negligence.

According to the Board of Certification Inc., there are three types of torts typically present in cases of medical negligence: nonfeasance, which is the failure to perform or complete a critical task; malfeasance, or performing a duty outside of the scope of practice; and misfeasance, which is a mistake made while performing a task.

Though an employer's professional liability policy may defend the employer if legal action is taken due to negligence, it may not defend the athletic trainer as a medical practitioner.

According to the NATA Liability Toolkit, a complaint against an AT's state license may not be covered by an employee's general or professional liability policy. In that case, expenses such as hiring an attorney or lost wages from taking time off work to stand before the licensing board would need to be covered by the AT.

"When I was at the recent [NATA] conference, an AT said he found out he wasn't covered by [his] school and didn't realize it until there was a claim against another AT," Ingledue said. "[ATs] may assume they are covered by the school, but their policy may exclude medical professional liability insurance."

Medical professional liability insurance is often more comprehensive coverage, providing an AT assistance during the threat of litigation, lost wages, losing a license and more. This is often not included in general liability coverage and must be obtained by the AT.

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Do you have feedback or a content suggestion for the *Sports Medicine Legal Digest* editorial team? Contact us at www.nata.org/contact with your feedback so we can continue to improve this resource.

ARE YOU ADEQUATELY INSURED?, *continued from page 02*

Another important variable to note is how the state in which the AT is practicing can be a factor in legal protection. Depending on the state and the offense, many government-operated or funded institutions, such as schools, are protected against legal action because of sovereign immunity. Each state has different laws determining what is and isn't shielded behavior. However, according to the NATA Liability Toolkit, an athletic trainer's license is not protected under sovereign immunity.

For details on a specific state's laws, contact the state association's government affairs committee.

Finally, Ingledue said, not working directly with patients or not being present for a specific incident doesn't prevent an athletic trainer from being held liable for negligence.

"In a malpractice lawsuit, the employer will be named along with any licensed professional employed by them, whether they were present or not," Ingledue said. "What will happen for negligence, [the company or school will] try to settle it immediately versus seeing what happened. … The insurance policy is looking out for the [policy owner] and not the employee. In this case, having a [personal] policy is a great advantage because you have your own legal defense."

Every policy is different and before assuming the coverage provided by an employer is insufficient, it's important to see what is offered. To make an informed assessment, ask some foundational questions.

"You need to know your [employer's] plan for liability and are you, as an AT, written into that plan?" said Randy Cohen, ATC, DPT, chair of the NATA Liability and Risk Management Assessment Work Group, and a contributor to the NATA Liability Tool Kit. "Once that is looked at, is that level of coverage enough to protect you?

"Does that payout cover you after you leave and you get a lawsuit two years later? Is it just for your duties doing your jobs [for your employer] and are all of them covered in the plan [when performed anywhere]? [Does it cover] visiting teams or a coach or referee or just student athletes? Are you covered as a medical provider and not just an employee? Is there any license protection, if you're suspended? Is there coverage for pay?"

Cohen said if any of those questions isn't addressed appropriately by an employer's policy, personal liability coverage is needed.

Whether an AT is a contractor or employed by a company or institution, there are stipulations that should be considered necessities when determining if a policy is comprehensive enough, such as sexual misconduct coverage, license protection, licensing board reimbursement, coverage for loss of wages and extending reporting period (aka, tail coverage).

Tail coverage protects athletic trainers in the event that a suit is filed because of treatment provided years ago. Cohen said this coverage is paramount because the statute of limitations, though typically two years, can have rules mandated by the state created to protect patients, no matter when an issue is discovered.

"Concussion is the new asbestos," Cohen said. "You don't know that you have a disease from asbestos for many years after exposure. What's happening is if a 45-year-old former athlete develops chronic traumatic encephalopathy or dementia, and they claim it was caused by negligent treatment of concussions while playing football in college, an AT could be named in a lawsuit 25 years later. The whole industry is throwing their hands up. Most medical records are only held for seven years. So, you have to remember the care you gave and the standard of care from 25 years ago."

Cohen recommends maintaining proper documentation and keeping policies and procedures updated every year.

Chris Ayres, a Dallas-based attorney and public speaker specializing in athletic training liability coverage, said there are two types of tail coverage: claims-made policies and occurrence-based policies. A claims-made policy provides protection against all previous incidents as long as an insurance policy is maintained, while an occurrence-based policy provides lifelong coverage on claims filed referencing incidents occurring while covered, whether currently insured or not.

When analyzing an insurance plan, there are many factors to consider. In order to gain a personalized assessment of what coverage is needed, it's important to understand your state's scope of practice, consult with a member of your state association's government affairs committee and take the NATA Liability Toolkit assessment.

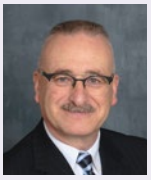
To get personalized tips and information that will aid in the process of choosing a policy, NATA members can access the NATA Liability Toolkit at **www.nata.org/user/login?destination=practice-patient-care/risk-liability.**

RELATED RESOURCES

+ **Sports Medicine Licensure Clarity Act Signed into Law**
+ **Watch Out for Per Diem Pitfalls**

Q & A

DAVID CSILLAN ANSWERS 10 QUESTIONS ABOUT HEAT ILLNESS



When athletes practice and play in hot and humid conditions, there's always a risk of exertional heat illness. Athletic trainers play a vital role in preventing and treating heat-related illness, and can be legally liable for the consequences of not following accepted standards of care. There are a multitude of questions on this issue, and *Sports Medicine Legal Digest* posed 10 of them to NATA Hall of Fame member David Csillan, MS, LAT, ATC. Csillan is chair of the NATA District Secretaries'/Treasurers' Committee; member of the Medical and Science Advisory Board of the Korey Stringer Institute; co-author of the NATA Exertional Heat Illness Position Statement; and a member of the New Jersey Interscholastic Athletic Association Sports Medicine Advisory Committee.

Q: What are the legal responsibilities of athletic trainers to prevent heat illness and heat stroke?

The services athletic trainers provide comprise prevention, emergency care, clinical diagnosis, therapeutic intervention and rehabilitation of injuries and medical conditions. They are responsible for following best practices in the prevention of heat illness and heat stroke.

Q: Can an athletic trainer be held personally liable for injuries and illness sustained by an athlete if the athletic trainer is employed by an organization?

All members of an organization's medical team and athletic department, including but not limited to physicians, athletic trainers, school administrators, coaches and support staff, may be held liable if proven they were associated with the athlete during the time of injury or illness.

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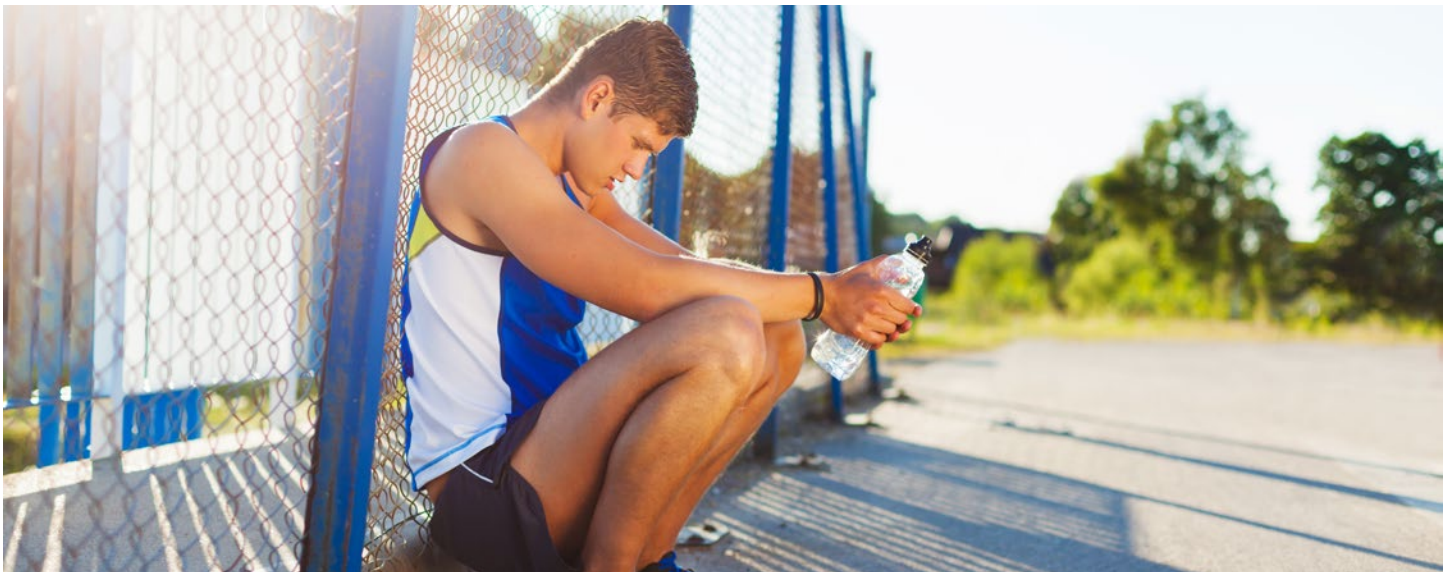

Legal Concerns Regarding Exertional Heat Stroke

BY REBECCA M. LOPEZ, PHD, ATC, CSCS, AND TIMOTHY NEAL, MS, ATC, CCISM
NATA PROFESSIONAL RESPONSIBILITY IN ATHLETIC TRAINING COMMITTEE

When it comes to discussions athletic trainers have about exertional heat stroke (EHS), the two most common themes are preventing death from EHS and minimizing the risk of being negligent. However, there appears to be an array of misinformation among the professional community regarding the legal aspects of the prevention, recognition and treatment of EHS by athletic trainers.

The evidence, both in controlled laboratory studies[1,2] and actual cases of EHS patients,[3] strongly demonstrates that best practice in the recognition of EHS is a rectal temperature greater than 105 degrees along with central nervous system (CNS) dysfunction, while best practice regarding treatment is aggressive cooling on-site via cold water immersion (CWI). The mantra "cool first, transport second" is often used to describe how athletic trainers should manage this potentially fatal condition in the prehospital setting.[4,5] However, many athletic trainers have expressed concern regarding why they would not follow best practice in the recognition and treatment of EHS. Some of these concerns regarding obtaining a rectal temperature include fear of performing this skill on a minor of the opposite sex, not having permission from administration to do so or fear of being accused of sexual assault or child molestation. Via personal communications and social media platforms, athletic trainers have stated comments such as, "I won't use a rectal thermometer on a minor," or "Obtaining a rectal temperature is an invasion of privacy and cannot be done in an athletic setting."

Athletic trainers in various settings have noted several potential barriers to implementing best practice; these have included lack of education and training and fear of liability.[6-8] It's important to note that significant advances have been made in terms of education and knowledge in this area since some of this research was conducted. The Commission on Accreditation of Athletic Training Education (CAATE) educational competencies have included these skills for some years now. There have also been numerous continuing education opportunities regarding EHS at the NATA Clinical Symposia & AT Expo and many state and district meetings. Lastly, there has been a constant flow of published consensus statements, position statements and interassociation task force publications on how to prevent sudden death that have included the key recommendations for the prehospital care of EHS by clinicians. Therefore, it is imperative for athletic trainers to follow best practice in an effort to minimize the risk of an adverse event and the likely association of legal implications by way of an act of omission.

Despite the evidence, the fear of liability is of great concern to many clinicians, particularly in the secondary school setting. We continue to hear about heat-related deaths that still occur. In many cases, EHS deaths occur in the secondary school setting during summer conditioning where an athletic trainer was not present. However, there are numerous cases where an athletic trainer was present, best-practice recommendations were not followed and this negligence resulted in long-term complications or the death of an athlete. Death from EHS is 100 percent preventable with proper recognition and treatment, therefore, an athletic trainer who doesn't follow best practice in cases of suspected EHS may be liable in these circumstances. The most commonly cited causes of death from EHS are misdiagnosis (due to inaccurate or no temperature assessment), no care or delay in care or treatment (i.e., aggressive cooling), use of an inadequate cooling modality, return to play too soon following heat illness and immediate transport to the emergency room in lieu of on-site cooling first.[9]

If an athletic trainer either uses no temperature assessment or an invalid temperature measure (i.e., oral or tympanic), and/or begins cooling the athlete but then immediately transports the patient as soon as EMS arrives, they can be found negligent. Negligence in these circumstances

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would be established if there was a harm to the patient as a result of the athletic trainer not following the EHS recommendations.

If the athletic trainer failed to act on national recommendations for assessing temperature and/or cooling the patient adequate prior to transport, the athletic trainer may be found negligent due to an act of omission. In the case of EHS, harm would, in the legal sense, be short-term or long-term negative effects (i.e., liver damage, kidney failure or other associated harm to the patient) due to lack of treatment or a delay in treatment by the athletic trainer.

The common themes in EHS legal cases involving athletic trainers have included review of the emergency action plan (EAP) and the presence or absence of a heat policy and whether it was followed, recognition of EHS via rectal thermometry and CNS dysfunction, and cooling via cold water immersion prior to transport.

The concern of liability in the secondary-school setting is centered on the patient's being a minor; however, the evidence-based recommendations for recognition and treatment of EHS apply to all EHS patients, regardless of age. The use of a rectal temperature to diagnose EHS allows the clinician to know the extent of the hyperthermia and also allows the clinician to determine when the patient's body temperature has decreased below the critical threshold of 105 degrees. As per the 2015 NATA Position Statement: Exertional Heat Illnesses, the patient should be cooled on-site via cold water immersion until rectal temperature reaches 102 degrees within 30 minutes of collapse, prior to transport.[4,5] The longer the patient's temperature remains above this threshold, the greater the risk of organ damage, disability and death. Therefore, clinicians in the secondary-school setting should also consider adding these best-practice recommendations into their EAP and heat policy.

One of the main ways to avoid a legal issue with EHS is education. Education regarding the recognition and management of EHS should be incorporated with all stakeholders, such as team physicians, athletic trainers, coaches, administrators, parents and local EMS. The school or organization's risk-management team or legal counsel should also review the heat policy and EAP to provide an additional layer of approval in the event of any complaints or litigation.

Using EHS cases to demonstrate the potential liability of not following best practice often assists in getting stakeholders on board (namely, administrators). Once stakeholders have a solid understanding of how there is 100 percent survival when EHS is recognized promptly and cooled aggressively on-site, implementing these policies will not only be easier, but also assuage concerns of liability.

Documentation of all education and training is imperative. The supervising physician and athletic training staff should discuss and develop an EAP that includes the protocol for a suspected EHS at their clinical site (venue specific). State practice acts should always be considered when developing this policy. Once this policy is developed, the EAP and heat policy should be shared with all involved parties. School administrators should document with a signature that they have reviewed and understand the policy. Allowing nonmedical personnel or administrators to dictate which lifesaving skills and policies an athletic trainer can implement is not appropriate and can lead to liability. Coaches should also be aware of the heat policy and what role they may play during an emergency EHS scenario. For example, in the secondary school setting where athletic trainers may be on their own, the coach may be the person who assists the athletic trainer. Athletic trainers should also provide their local EMS with their protocol. "Cool first, transport second" often conflicts with the EMS protocol to transport to advanced care as soon as possible. Sharing and practicing the heat policy with the entire athletic training staff and athletic training students will ensure the protocol is followed in the event of EHS.

There have been several fatal EHS cases that have gained media attention. It is important to review cases to learn from them, improve clinical practice and decrease the risk of a preventable death. Clinicians should review these cases and determine what changes, if any, should be made to their current heat policy and EAP.

Despite the unfortunate deaths from EHS that have occurred in various athletic settings, it is important to also note the cases where proper recognition and treatment have resulted in positive outcomes. In the last few years, there were a couple of reported cases of high school cross country runners whose lives were saved by athletic trainers after experiencing EHS. In both cases, the athletic trainers followed best-practice recommendations and the runners made a full recovery. In one of these cases, a female high school cross country runner experienced EHS at the end of a meet. The athletic trainer immediate noticed her CNS dysfunction, obtained her rectal temperature, called EMS and cooled her via cold water immersion before transport to the hospital. The athlete was transported to the hospital, but not admitted. She was cleared back to running and is still in high school, competing on her high school cross country team.

Every August at the Falmouth Road Race in Massachusetts, there are incidents of EHS. The medical volunteers have treated hundreds of EHS patients over the years, with no fatalities.

In conclusion, any time there is a possibility of sudden death in sport, there will be concerns about liability. When it comes to EHS, we have sufficient evidence in both controlled research settings and in case series of actual EHS patients to know that death from EHS is preventable with proper recognition and treatment. Therefore, athletic trainers' concerns regarding liability when it comes to EHS can be addressed by ensuring there is proper education, documentation and adequate heat policies in place. A heat policy developed by the athletic trainer and supervising physician that incorporates the use of rectal thermometry and CNS dysfunction to recognize EHS and cooling via cold-water immersion prior to transport will help mitigate risk and decrease the chance of liability. The ultimate goal is to decrease the number of preventable deaths from EHS and to ensure athletic trainers are following best-practice recommendations in all settings.

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CASE SUMMARY

ATHLETE, UNIVERSITY AND AT REACH SETTLEMENT IN CONCUSSION CASE

An athletic trainer employed by a university was responsible for monitoring a student athlete's injuries during practices and games, conducting assessments and initiating referrals to the team physician when an injury was suspected. In addition, the AT was responsible for conducting concussion baseline testing of all student athletes once they joined the team as well as when an injury occurred.

A paper baseline concussion assessment was completed on a student athlete who joined the football team in the fall of 2011. The assessment conducted was consistent with university protocols and a determination was made that the athlete was not at risk for concussions.

It is reported that, throughout the student athlete's career at the university, he sustained injuries on four separate occasions within a six-month period.

The AT's actions and documentation were evaluated and found to be consistent with university protocols and procedures for each event with a suspicion of concussion or mild traumatic brain injury. In addition, for each event, concussive tests performed were consistent with policies and procedures and reportedly reflected appropriate and timely referral to a physician each time the assessment revealed any suspicion of a concussion.

Two years after his career at the university, the student athlete was diagnosed with permanent brain damage, requiring care 24 hours per day, seven days per week.

The student athlete sued the university and the AT, alleging:

- Failure to use objective post-concussion testing on four occasions within a six-month period
- Failure to provide adequate medical treatment or referrals to a physician
- Failure by the university (and its employees) to protect the student athlete from further injury by allowing him to continue to play football post-concussive events
- Failure by the university (and its employees) to refer the athlete to a neurologist following confirmation of concussive or mild traumatic brain injury

The defense counsel received favorable reviews from experts who asserted that the AT properly completed an initial paper-based assessment and was in compliance with the university's policies and procedures for all concussion tests performed and physician referrals when findings indicated suspicion of a concussion. However, there were reported concerns with the overall response to and treatment of the student athlete that impacted the defensibility of the lawsuit.

The defense counsel's case evaluation determined that the former athlete would make a favorable impression on a jury and that there was potential for a large jury verdict against the co-defendants, the university and AT, based on the young man's medical status. The case was settled between the University and the athletic trainer for an undisclosed amount. An additional settlement was paid on behalf of the athletic trainer for an undisclosed amount. Both co-defendants had insurance.

RELATED RESOURCES

+ Normative Data for the BTrackS Balance Test Concussion-Management Tool: Results From 10,045 Athletes Aged 8 to 21 Years
+ Longitudinal Assessment of Balance and Gait After Concussion and Return to Play in Collegiate Athletes
+ Epidemiologic Measures for Quantifying the Incidence of Concussion in National Collegiate Athletic Association Sports
+ Clinical Evaluation of the Concussed Athlete: A View From the Sideline
+ Legal Aspects of Concussion: The Ever-Evolving Standard of Care
+ If You're Not Measuring, You're Guessing: The Advent of Objective Concussion Assessments
+ Head-Impact–Measurement Devices: A Systematic Review
+ Concussion Handout

Q&A, *continued from page 03*

Q: Does an athletic trainer have a duty to warn others (athletes and coaches) if he suspects an athlete might be experiencing symptoms as a result of heat?

As the on-site health care provider, athletic trainers have a duty to inform coaches of any athlete(s) experiencing heat illness signs and symptoms. In addition, activity modification or termination recommendations must be made based upon the site-specific wet bulb globe temperature (WBGT).

Q: Is it an athletic trainer's responsibility to advise coaches not to hold or to terminate practice as a result of the heat?

The monitoring and management of environmental conditions must be detailed in the athletics' emergency action plan (EAP). Although usually the athletic trainer, any designee trained and set forth by the school district, and established in the EAP, can monitor environmental conditions. When environmental conditions are deemed unsafe due to the heat, it is that individual's responsibility to advise coaches on the necessary modifications to either continue or terminate activity.

Q: Can an athletic director be held liable for the wrongful death of a student as a result of heat illness?

According to the NATA Inter-Association Task Force for Preventing Sudden Death in Secondary School Athletics Programs: Best Practice Recommendations, "the EAP ideally is developed by school administrators in collaboration with coaches, school medical personnel (athletic trainers, nurses, team and consulting physicians), and campus public safety officials and coordinated with the local emergency medical services (EMS) system. As the supervising administrator of the athletic department, the athletic director "ensures that relevant health and safety state laws and state athletic association

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CASE SUMMARY

AT'S PERSONAL INSURANCE POLICY PROVIDES LEGAL REPRESENTATION, INDEMNIFICATION PROTECTION

While participating in a routine football practice, a teenage male athlete was reportedly involved in a collision with another student athlete. According to the athletic trainer's documentation, following the collision, the coaching staff and athletic trainer "checked him over" and made the decision to dismiss him from the rest of the practice and allow him to go home. There is no documentation of what the athlete reported he experienced or what, if any, symptoms he may have reported. There is also no documented indication that either the coaching staff or athletic trainer reviewed his health and injury history, knew or were aware of any evidence that the athlete may have suffered a concussion, a mild traumatic brain injury or possibly multiple concussive traumas as a direct result of the reported collision.

The athlete was held out of practice the day following the collision. There is no documentation to reflect what the athlete reported when he arrived at practice, the reasoning behind the decision to keep him from participating in practice or that a baseline assessment was conducted.

Two days after the collision, the player was reportedly allowed to resume activities with the team without a medical clearance. During warmup, the athlete complained of headaches and pain in the back of his head. He was, again, dismissed from practice. The coaching staff and athletic trainer didn't document an evaluation or assessment following his complaints during the warmup. There is no indication in the record that a baseline concussive assessment was conducted or that post-concussive protocol was considered.

Based on the lack of documentation, it appears that the coaching staff and athletic trainer were operating under the assumption that there hadn't been evidence of a concussion as a result of the collision three days prior.

There also was no indication that efforts were made to communicate with a parent or legal guardian when the athlete was dismissed again from practice.

The athlete collapsed and died three days after his attempt to return to practice. The medical examiner ruled the death "the result of head trauma while playing football."

A lawsuit was filed against the county board of education, the coaches and the athletic trainer – all employees of the school. The lawsuit alleged:

- Failure to initiate concussion protocol
- Failure to contact the parents/legal guardians to advise them of a concussion
- Failure to obtain medical clearance by a licensed physician before allowing the athlete to resume practice activities

The school district based its defense on the fact that neither the coaching staff nor the athletic trainer knew or were aware of any evidence the athlete may have suffered a concussion, or possibly multiple concussive traumas, as a direct result of the collision.

Despite the evidence, the fear of liability is of great concern to many clinicians, particularly in the secondary school setting.

The athletic trainer had a personal liability insurance policy and had legal representation assigned by his insurance company.
The case was settled by the school district before trial for an undisclosed amount on behalf of all parties named in the lawsuit.

The personal liability insurance for the athletic trainer would have indemnified him if the primary insurance through the school were not sufficient. The lesson of this claim is that through his individual insurance coverage, the athletic trainer had his own legal representation. In addition, if the school didn't fully indemnify on behalf of the athletic trainer, or the limits of its coverage were exhausted, then the AT's personal insurance coverage would have provided additional indemnification. $

Q&A, *continued from page 06*

policies are managed and enforced consistently," therefore, he or she may be held liable in the wrongful heat illness death of a student athlete.

Q: Are there specific NATA guidelines or other guidance for athletic trainers to prevent heat illness?

NATA hosts several resources to educate and combat heat illness at **www.nata.org.** Athletic trainers should encourage parents to visit **atyourownrisk.org** to discover ways to prepare athletes for participation in the heat.

Also, athletic trainers must review and follow the following documents:

- NATA Position Statement: Exertional Heat Illness **(natajournals.org/doi/pdf/10.4085/1062-6050-50.9.07)**
- NATA Position Statement: Preventing Sudden Death in Sports **(natajournals.org/doi/pdf/10.4085/1062-6050-47.1.96)**
- Inter-Association Task Force for Preventing Sudden Death in Secondary School Athletics Programs: Best Practice Recommendations **(natajournals.org/doi/pdf/10.4085/1062-6050-48.4.12)**
- Inter-Association Task Force for Preventing Sudden Death in Collegiate Conditioning Sessions: Best Practice Recommendations **(natajournals.org/doi/pdf/10.4085/1062-6050-47.4.08)**
- Preseason Heat Acclimatization Guidelines for Secondary School Athletics **(natajournals.org/doi/pdf/10.4085/1062-6050-44.3.332)**

Q: Are athletes with sickle cell disease more susceptible to heat illness or stroke?

Exertional sickling is one of the top four causes of sudden death in sports. In athletes with sickle cell disease, during intense exercise, the normal round red blood cells may change into a half-moon shape, impeding the flow of blood in the vessels. Sickling may occur within three minutes of any high intensity exercise resulting in collapse of the athlete. However, a

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CASE SUMMARY

WHAT HAPPENS IF AN ATHLETE FILES A COMPLAINT WITH A LICENSING BOARD?

Prior to filing a formal lawsuit against ATs and/or their employers, an athlete will sometimes file a complaint with the licensing board. This usually occurs when the athlete's attorney is uncertain whether the AT was legally negligent or simply breached a standard of care in the alleged harmful action.

Here's a composite example.

A student athlete's parents filed a complaint with a licensing board against an athletic trainer and the secondary school. The complaint alleged that the athletic trainer misdiagnosed and mistreated a hip injury. The athletic trainer had assessed the injury as a hip strain, and the athlete returned to compete after the injury.

In the complaint, the parents alleged that the assessment was incorrect and, had it been diagnosed and treated correctly, the hip injury would not have occurred. The athletic trainer disputed this assertion and argued adamantly that there was no displacement when the athlete first complained of pain. The parents alleged that the injury prevented their child from competing in other sports and affected his grades, causing pain and suffering.

The athletic trainer was covered by personal professional liability coverage. In general, athletic trainers can obtain their own legal counsel for licensing board reimbursement. But, the claims adjuster can also provide legal resources.

The board dismissed the complaint with no action taken against the athletic trainer. The insurance company reimbursed the athletic trainer for expenses in excess of $2,000. This claim was fully paid by the personal insurance of the athletic trainer.

If the athletic trainer did not have this individual policy, he would have been responsible for those out-of-pocket legal expenses. Upon receipt of a complaint from the licensing board, athletic trainers should contact the insurance company to file a claim. The insurance company will ask the athletic trainer a series of questions and explain the coverage, including limitations on licensing board reimbursement. This coverage is typically covered by most personal insurance policies. The insurance company can reimburse the attorneys for their expenses or directly reimburse the athletic trainer. In most cases, the attorneys will review the insurance coverage and submit the expenses to the insurance company.

CASE SUMMARY

$1 MILLION LAWSUIT AGAINST ATHLETIC DIRECTOR, COACH ALLEGES GROSS NEGLIGENCE, ABSENCE OF AT IN EXERTIONAL HEAT ILLNESS CASE

A high school student sued an athletic director and soccer coach, alleging he suffered exertional heat illness and almost died as a result of their gross negligence during practice in July 2017. The state court litigation continues two years after the incident, according to the student's attorney.

The student claims the high school athletic director and soccer coach put his health in danger when he participated in the two-hour practice. According to court documents, at 8 a.m., when the team practiced on its synthetic turf facility, the temperature was 80 degrees and the humidity was at 72 percent. According to the court documents obtained by *Sports Medicine Legal Digest*, the National Weather Service recently issued a heat advisory for the local area.

In the court document, the student claims "members of the team were running almost constantly, by design," and "the practice was conducted without [an athletic] trainer present." The document states the coach had "no way to monitor the hydration, health and water consumption of the players throughout the practice." The document also states that, during the practice, the student "stopped perspiring and became

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Q&A, *continued from page 07*

hot environment and dehydration during less intense exercise may contribute to the onset of exertional sickling. Signs and symptoms are similar to someone experiencing heat illness, except core temperature is not greatly elevated. For this reason, it is most important to be aware of athletes with sickle cell disease and have unlimited water available. Provide additional rest breaks and discontinue activity when these athletes begin exhibiting signs of struggle. If vitals begin to decline, immediate transport to the hospital is necessary.

Q: Where can we find more information on this topic?

More information on the effects of heat and exercise on athletes with sickle cell disease can be found at on the NATA website, under the "Practice & Patient Care" tab.

Q: How difficult is it to diagnose symptoms of heat illness or stroke?

The onset of heat illness symptoms are easily diagnosed. Athletes may first complain of exercise-associated muscle cramping resulting from dehydration and electrolyte imbalances. They may describe dizziness, or heat syncope. This usually results from lack of conditioning coupled with dehydration. With heat exhaustion, they experience cardiovascular insufficiency and general fatigue. There may be gastrointestinal disturbances accompanied with vomiting. Finally, exertional heat stroke presents itself with central nervous system dysfunction (aggressiveness, confusion, seizures, altered consciousness and collapse). A confirmed diagnosis of EHS can only be made through obtaining a core body temperature with a rectal thermometer. A core body temperature near 104 degrees confirms exertional heat stroke.

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seriously ill." The document asserts that when the student returned home after practice, his mother noticed her son's hands were turning blue and he was gasping for air. The mother reportedly said, "He couldn't walk; he couldn't talk. His head was hurting so much he was nauseous. He was in bad shape. All he wanted to do was lay on the cold, wood floor."

As to the importance of an athletic trainer at a practice, the student's attorney told *Sports Medicine Legal Digest,* "The coach has to be doing so many other things in running a team practice, it is hard for a coach to check on how each of the boys is doing. [An athletic] trainer would have been watching the boys carefully, looking for signs of heat-related illness. [An athletic] trainer would have been the adult who would have insisted that the coach give the boys an actual break from the heat – out of the sun, off the blazingly hot synthetic turf field, with ice and cold water. And [an athletic] trainer would have known to take immediate action to cool down a boy who was struggling."

[An athletic] trainer would have been the adult who would have insisted that the coach give the boys an actual break from the heat...

In a press release issued by the attorney, the student's mother "immediately recognized the signs of heat stroke, and got him into a cold bath, and then to the hospital. The doctors estimate that he very nearly died that morning."

In the lawsuit, the student claims he probably can't allow himself to become overheated for the rest of his life and that his family has sustained significant medical bills as a result of having suffered exertion heat illness.

Standards of Care

The court document lists multiple standards of care violations, including those established by the state's high school league guidelines, the U.S. Soccer Federation Guidelines, the NATA Position Statement on Fluid Replacement for Athletes and the recommendations of the Synthetic Turf Council. Those standards specifically referred to conducting practices, establishing hydration protocols, preseason conditioning and educating athletes on exertional heat illness.

RELATED RESOURCES

- **High school football players in states that follow preseason guidelines less likely to suffer from exertional heat illness**
- **Compliance With the National Athletic Trainers' Association Inter-Association Task Force Preseason Heat-Acclimatization Guidelines in High School Football**

CASE SUMMARY

AT'S ABSENCE RESULTS IN ATHLETE'S DEATH FROM EXERTIONAL HEAT STROKE, FAMILY AWARDED $3 MILLION

Editor's Note: This case study was based on the synopsis and analysis of the case discussed in the book, "Sports Law and Sudden Death" by Gil Fried, Lesley Vandermark, PhD, ATC, PES, and Douglas J. Casa, PhD, ATC, FNATA.

A 21-year-old college basketball player died following an exertional heat stroke he suffered after a punishment running session before preseason workouts. The student athlete had taken part in a weightlifting session prior to participating in the 4.5-mile punishment run outside of the gym. The athlete collapsed at the same time as another player with heat illness, who survived after spending the night in the hospital. But this athlete spent 12 days in the hospital. His organs failed and he died.

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Q: Can sufficient hydration prevent heat illness or stroke?

While proper hydration and electrolyte replacement may prevent or delay the onset of heat cramps and heat syncope, it will not prevent or reverse the symptoms of heat stroke. The risk of heat exhaustion and heat stroke can be minimized through participating in a proper heat acclimatization program incorporating the gradual increase of intensity, duration and introduction of equipment. Equally important, monitoring the site-specific WBGT and making the recommended activity modifications is imperative to providing a heat-safe environment for athletes.

Q: Anything else you want to add?

If the diagnosis of exertional heat stroke is confirmed, the condition is 100 percent survivable if the best-practice recommendation of "cool first, transport second" is initiated. The athlete should be placed in a cold water immersion tub of 38 to 55 degrees within 30 minutes of collapse, until core temperature falls to or below 102 degrees. At that time, it is safe to transport the athlete to the hospital.

AT'S ABSENCE, *continued from page 09*

The university's athletic trainer was not aware of the workout session. None of the athletes participating in the workout had been cleared by medical staff. This workout session occurred before any NCAA practices had been sanctioned to occur. One coach did follow the team in a golf cart. No water was allowed during the disciplinary run session.

The temperature outside during the punishment run was between 91 and 95 degrees. Signs and symptoms were neither recognized nor assessed until after the athlete collapsed. No rectal temperature was performed at the scene to determine the presence of a high body temperature.

Had appropriate medical personnel, such as an athletic trainer, been on the scene, the best course of action would have been to determine the body temperature. That action, combined with central nervous system dysfunction, would have indicated exertional heat stroke.

The athlete was transported to the hospital without proper cooling. It reportedly took approximately 20 minutes for emergency personnel to be called and arrive on the scene.

The family filed a civil lawsuit, suing the university for negligence. The jury awarded the family $3 million for losses suffered as the result of the negligence of the university.

There are several things that can be learned from this case, including:

- Appropriate medical staff should be on-site at all athletic events to initiate appropriate preventive strategies, early recognition and appropriate treatment for injured athletes.
- Appropriate recognition and treatment strategies should be implemented as quickly as possible to increase chances of survival from exertional heat stroke.
- Rapid cooling through cold water immersion is an easy and accessible modality for the treatment of exertional heat stroke.

RELATED RESOURCES

+ **Fatal Exertional Heat Stroke and American Football Players: The Need for Regional Heat-Safety Guidelines**
+ **Athletic Trainers' Attitudes and Perceptions Regarding Exertional Heat Stroke Before and After an Educational Intervention**

SOUND OFF

WHAT SIGNS DO YOU THINK PEOPLE MISS IN CASES OF HEAT-RELATED DEATHS?