

Q&A, continued from page 03

Q. What is the role of an athletic trainer in the EAP?

The AT's role in the EAP has a number of aspects and is most often seen as the individual who implements the EAP and, when needed, activates the venue-specific EAP to care for a stricken individual. In my own experience, the AT is seen as the person responsible for bringing together all of the other parties that are described in the position statement and involve them both in the overall EAP and specific venue EAPs.

Q. What are the basic components of a written EAP?

As we wrote in the NATA position statement, there are eight basic components of an EAP: implementation, personnel, equipment, communication method(s), patient transportation (basic life support, advanced life support, etc.), venue-specific plans, access to emergency care facilities and documentation.

Q. What personnel should be involved in creating and implementing the EAP?

With regard to the overall EAP for the organization, a number of people should be involved in the development, implementation and evaluation of the EAP. At a minimum the AT, the collaborating physician, organization administrators, coaches and local EMS personnel should be involved.

When a venue-specific EAP is implemented and activated, it's important that the personnel at the venue understand the chain of command with and without the AT present and can act accordingly. Specific personnel, other than the AT, would be coaches, game officials, administrators, EMS and possibly physicians. We do need to understand that, in many cases, the AT may not be immediately present to respond, so the other personnel present must be ready to implement the EAP.

continued on page 05

BEST PRACTICE, continued from page 03

help assist athletic trainers in developing policies and procedures specific to their organization while complying with local, state and federal laws and regulations. For example, the resource includes checklists that examine employee safety, patient safety, facility management and risk management.

The guide can also be used when reviewing policies and procedures on a yearly basis, Zimmerman said. She recommends conducting a review at least once a year, and the review can be a simple or comprehensive as necessary for the organization. Built into the templates provided in the guide is a recordkeeping function to demonstrate that training and retraining the people who will be following the policies and procedures during review are a part of policy implementation.

When reviewing or drafting new policies and procedures, athletic trainers can access the BOC Guiding Principles for AT Policy and Procedure Development resource, in addition to the

NATA Liability Toolkit exclusive to members at www.nata.org/practice-patient-care/risk-liability.

ATs should also be aware of position and consensus statements published by NATA that can impact how their policies and procedures are drafted. Those are updated at www.nata.org/news-publications/pressroom/statements.

When treating patients, ATs should always consider best practice, standard of care and their own policies and procedures because understanding how they work together symbiotically is important to reduce the risk of harming a patient or athletic training career.

"Ultimately, you shouldn't be practicing to protect yourself," Cohen said.

"You're practicing to protect your patient, so you have to document to show that, if something bad happens, you have the policies in place to address it."

LGBTQ+ Advisory Committee Discusses Employment Discrimination

BY ASHLEY CROSSWAY, DAT, ATC, LORIN CARTWRIGHT, MS, ATC, AND EMMA NYE, DAT, LAT, ATC, NATA LGBTQ+ ADVISORY COMMITTEE

It's imperative to know about federal, state and local laws or regulations that may affect athletic trainers and their patients in the LGBTQIA+ community.

There are a number of laws at all levels that can play a role in the employment of LGBTQIA+ individuals, including the federal Equal Access Act in education, Title IX and prohibited discrimination based on gender or gender identity, if U.S. Department of Education funds are received by the institution. Additionally, Title VII of the 1964 Civil Rights Act prohibits discrimination in employment based upon race, color, religion, sex and national origin.¹ The Title IX and Title VII policies apply solely to public institutions.

It's also important for LGBTQIA+ athletic trainers to understand their potential or current employer's inclusivity of all sexual orientations or gender identities. Private or religious institutions are often exempt from these regulations and may participate in discrimination based on sexual orientation, but others may be inclusive to all.

Before outlining some of the important items to look for when applying for athletic training jobs or working with athletic training students, consider the following story of an out lesbian athletic trainer who was allegedly terminated from her job because of her sexual orientation.

The AT was contracted by a local hospital system to work at a private high school for four and a half years and during this time, she saw an increase in her role and responsibilities. At the beginning of her service to the high school, she was only contracted to provide medical services for competition and certain sports. With time she was contracted to work at the high school full time. In addition to her increased duties as an athletic trainer, she was asked to serve as the assistant softball coach, thus also making her an employee of the high school.

In February 2020, the athletic trainer was asked to a meeting with the school's athletic director and leadership at the high school. During this meeting, a passage from a handbook was read that stated, "We believe that any form of sexual immorality (including adultery, fornication, homosexual behavior, bisexual conduct, bestiality, incest and use of pornography)

is sinful and offensive to God.” The athletic trainer was informed that all students, employees and volunteers must agree to respect and act accordingly to the tenants of the handbook. When asked to sign a statement saying she could uphold the tenants of the handbook, she replied, “You know I can’t.”

She was confused why she was asked to sign the handbook, when she hadn’t been asked to sign it during any of the previous four years she was employed with the high school. She had never been asked to sign or abide by this handbook or any other document similar to it.

After refusing to sign, the athletic trainer was immediately removed from her position as the softball coach, but there was uncertainty as to whether she would be allowed to continue working as the athletic trainer at the high school given that she was a contract employee. She was able to continue serving in her role as the athletic trainer for the next month until the school closed due to the COVID-19 pandemic. She remained employed with the hospital, however, and was placed at another school.

During the summer of 2020, the hospital and former employer discussed updating the terms of the previous contract. At that time, the high school requested that a clause be added to the contract regarding signing the school’s handbook. The hospital didn’t agree with the new clause, and their contract was terminated.

There are no discrimination laws pertaining to public employment in the state where this athletic trainer was practicing. But, the governor and mayors in the state have issued executive orders to protect LGBTQIA+ employees in the public sector since 2001.

Additionally in 2001, the governor issued an executive order to protect employees based on sexual orientation. Another executive order by the governor in 2004 extended protections to gender identity in the public sector.³ In 2006, the mayor where the AT was employed also issued an executive order protecting city and county employees from discrimination based on sexual orientation.³

Then, in 2017, the U.S. Court of Appeals ruled that employment discrimination based on sexual orientation is illegal.³ The ruling by the court was based on Title VII of the Civil Rights Act, indicating that employment discrimination isn’t legal based on sex.³

Although the U.S. Supreme Court ruled in June 2020 on employment discrimination based on sexual orientation or gender identity, it ruled separately that federal employment laws don’t apply to private religious institutions.

Since the high school that terminated the AT’s employment is a private institution that receives no federal funding, the school has the right to set rules that may discriminate against LGBTQIA+ individuals and other protected classes.

Researching Inclusive Employers

Applying for and securing a new job can be quite an extensive undertaking. There are a number of steps involved, from identifying companies that are hiring, updating a résumé, writing a cover letter and securing references, among others. LGBTQIA+ individuals often need to explore a company or institution in greater detail to determine if they are inclusive and accepting.

The first item to look for is the company’s nondiscrimination statement. Specifically, look for language that indicates if the company includes only federally protected classes or all people regardless of sexual orientation or gender identity. As previously mentioned, the June 2020 Supreme Court decision now protects LGBTQIA+ employees from employment discrimination; however, it doesn’t inherently guarantee an open, accepting and inclusive environment.

Also look for other indicators of diversity and acceptance, such as the mission statement, social media profiles, volunteer opportunities or charitable donations to LGBTQIA+ organizations and preferred names on forms.⁴ Furthermore, don’t simply trust the company’s website and details; instead use external resources, such as the Human Rights Campaign’s Corporate Equality Index, Campus Pride Index and other reviews for a nonbiased assessment.⁴

After completing research on various companies or institutions, it’s important to continue to investigate if this will be a suitable place of employment during the application and interview process.

Keep in mind the interview is a two-way street.⁵ Applicants should have the opportunity to ask their own questions. If offered an in-person interview, use this additional opportunity to determine the overall environment and culture of the organization. Some items to look for or inquire about include gender-inclusive bathrooms; LGBTQIA+ resources, such as diversity training and employee resource groups; and current employee diversity.^{3,4} Finally, don’t hesitate to ask about health and family benefits including paid family leave, paternal leave, trans inclusion on health care plans, etc.^{3,4}

How Employers Can Be More Inclusive

Although some employers may operate in a state that protects LGBTQIA+ workers, it’s important to note that an organization’s culture may prohibit an employee from feeling comfortable enough to bring their “whole self” to work.

Researchers have found that 46 percent of LGBTQIA+ workers say they are closeted at work.⁶ Although best practice is to implement

Q&A, continued from page 04

Q. Who should develop the equipment strategy?

As we have seen over time, the availability of equipment can vary widely among setting. Therefore, it’s critical that the institutional/organizational administrators and the medical team (AT, physician) work together on this strategy. In addition, collaborating with local EMS is important for understanding what equipment and level of care is available.

Q. Who should be responsible for developing the communication strategy and what should be the essential elements?

It is critical that the institutional/organizational administrators and the medical team (AT, physician) work together on this strategy. Essential elements would include determining what methods of communication will be used, i.e., cell phones, walkie-talkies, land lines. It is also important to consider the need for a secondary communication system, if the primary system fails. It is also recommended that a communication tree be developed to facilitate understanding of who is responsible for specific communications, i.e., call 911, call physician, call hospital, etc.

Q. What are the keys to a successful protocol?

There are several keys to success and an important one is ownership of the emergency plan at the organizational/institutional level. What this looks like is the involvement of administrators, the medical team, coaches and others as appropriate for the organization. I also think most of us would agree that rehearsal of the EAP for each venue is an important key to ensure preparedness to respond in an emergency situation.

continued on page 06

continued on page 06

Q&A, *continued from page 05***Q. What are some of the legal considerations in developing an EAP?**

As we established in the position statement, there is a legal need to have a written EAP. Specifically, it is well-understood that organizational medical personnel have a legal duty to provide an accepted standard of care, and this applies to emergency care situations, as well. It's also becoming increasingly clear since publication of the position statement that organizations/institutions are expected to address all aspects of the recommendations to ensure readiness to respond to an emergency. Therefore, documentation of both development, review and updating of the overall plan and each venue-specific plan is critical.

Q. EAPs should be reviewed annually. What factors have changed since you were a co-author on the EAP position statement almost 20 years ago?

Yes, it has been nearly 20 years since we published the position statement. One factor that has changed is improvement in communication tools that the personnel involved may have access to and this should be reflected in any updates to the EAP and the associated venue-specific EAPs. It's also important for us to note that additional position statements published after the emergency planning statement have addressed many emergency situations that should be reflected in the overall EAP document. The annual review should take note of these and incorporate elements of these in the EAP document.

Q. What's the most common mistake made in developing an EAP?

I might suggest two. First, in my mind, is the AT taking on the development of the EAP by themselves and not involving all those who have a stake in EAP development. Another is not realizing that the position statement speaks to two aspects of planning: One aspect is that there should be an overall EAP policy document; second, is that each venue-specific EAP is derived from the overall document. §

anti-discrimination hiring policies, employers should also include sexual orientation, gender identity and gender expression into their anti-harassment policy and harassment prevention training. Including these types of inclusive policies not only ensures the LGBTQIA+ employee is included initially while hiring, but also throughout their time as an employee with the organization.

In addition to creating policies for hiring, employers can also take actionable steps to make their recruiting more inclusive for LGBTQIA+ employees. Statements on inclusivity and respect may be added to job postings on the employer's career page or posting. Employers can reach out to their local LGBTQIA+ organizations, many of which host job fairs and have community job boards for LGBTQIA+ candidates, to actively recruit diverse candidates. Employers can also consider ensuring their interview panel has adequate diverse representation when vetting potential candidates.

In addition to visible postings and active recruitment, employers must put these efforts into practice by following through with the employee's actual job experience. For example, employers should consider internal trainings with current staff and integration of diversity and cultural competence training into professional development opportunities.

In order for employers to meet best practices, they must also ensure their benefit plans serve all potential workers. For example, health benefits should serve everyone, regardless of sexual orientation or gender identity. Life insurance should include same-sex partners, and there should be equal health benefits for transgender employees, without exclusion for medically necessary gender-affirming care.⁶

Inclusivity at the Collegiate Level

When coordinators of clinical education prepare to place an athletic training student at their respective clinical sites, it's important they select an inclusive, welcoming and nondiscriminatory site. Prior to beginning conversations about site agreements, the athletic training program has a responsibility to research any school or organizational policies surrounding equal opportunity.

A survey of medical students indicated that 30 percent of those who identify as a sexual minority don't disclose this information during their coursework or clinical experiences because they fear discrimination.⁸ Students fear that disclosing this information may negatively impact their chances of securing a job.⁸

The study also suggests that medical schools collect information regarding LGBTQIA+ students in an effort to improve recruitment processes.⁸ This model has potential to be adopted into athletic training programs to not only send a message that being LGBTQIA+ is welcomed in the athletic training community, but also encouraged as a valued contribution to a more diverse profession.

Once the student has begun their clinical rotation, it's also important for preceptors to provide an affirming and supportive environment. Providing a visible indicator that the athletic training facility is a safe space, and encouraging the student to talk openly (if they feel comfortable) regarding their identity creates a safe space, and, ultimately, a safe learning environment to grow their skills as a future clinician.

Federal, state and local laws can play a role in nondiscrimination if the institution receives federal funding. Although private institutions have a right to employee who they choose, even in a contract, it may limit the places of employment for the LGBTQIA+ community.

It's imperative that those in the LGBTQIA+ community utilize resources to determine if an employer would be a good match. It is far better to understand the compatibility of employment prior to accepting a position. §

References

1. US Equal Employment Opportunity Commission. Title VII of the Civil Rights Act of 1964. (ND) Available at: <https://www.eeoc.gov/statutes/title-vii-civil-rights-act-1964>. Accessed August 13, 2020.
2. Pride Legal. (2019) Indiana LGBT Laws. Available at: <https://pridelegal.com/indiana-lgbt-laws/>. Accessed August 13, 2020.
3. Freedom for All Americans. (2020) Indiana LGBTQ Non-Discrimination in the States. Available at: <https://www.freedomforallamericans.org/category/states/in/>. Accessed August 13, 2020.
4. Zoller, BP Six Steps For Finding LGBT-Friendly Employers. Fast Company. <https://www.fastcompany.com/3061746/six-steps-for-finding-lgbt-friendly-employers>. Published July 13, 2016. Accessed August 15, 2020.
5. Fleenor, SE. Job Searching While LGBTQ: How to Find a Truly Inclusive Place to Work. The Muse. <https://www.themuse.com/advice/job-searching-while-lgbtq-how-to-find-inclusive-employer>. Accessed August 15, 2020.
6. A workplace divided: Understanding the Climate for LGBTQ+ Workers Nationwide. Human Rights Campaign. <https://www.hrc.org/resources/a-workplace-divided-understanding-the-climate-for-lgbtq-workers-nationwide>. Accessed: August 9, 2020.
7. The Corporate Equality Index 2020. Human Rights Campaign. <https://www.hrc.org/campaigns/corporate-equality-index>. Accessed: August 9, 2020.
8. Marsh M, White W, Gee-Tong, L., Lunn, M.R., et al. 2015. Sexual and gender minority identity disclosure during undergraduate medical education: "In the closet" in medical school. *Academic Medicine*, 2015; 90(5):634-644.