[Amicus Curiae]

Legal Liability in Covering Athletic Events

Eric F. Quandt, JD,*† Matthew J. Mitten, JD,‡ and John S. Black, JD§

Keywords: sports injury; legal liability; high school athletics; tort law in sports

Athletic trainers, team physicians, physical therapists, coaches, and schools all face potential liability by providing medical coverage at athletic events. This article will focus on potential liability that may arise from high school athletic injuries.[30] Common principles can be found among the laws of each state, but material differences exist in the decisions of the higher courts of each state and from state statutes. This article is not intended to serve as a state-by-state comparison of applicable laws, but rather to explain the legal principles involved, and offer some "real life" examples of how courts in various jurisdictions around the country have applied these principles with a goal of bringing about awareness and further discussion.

Everyone owes a duty of reasonable care to others in the course of their daily lives. A tort is committed when we fail to act as an ordinary and reasonably prudent person under similar circumstances and cause injury to another person. An individual who possesses a greater degree of skill and training in a particular field must act as a reasonably prudent person who possesses similar skill and training. For example, 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, within a particular field or profession, individuals who specialize may be held to an even higher standard of care than others in their profession. Thus, an orthopaedic surgeon may be held to a higher standard of care than a general internist.

For example, the respective standards of care imposed on athletic trainers and coaches were set forth in *Searles v Trustees of St. Joseph College,*[36] by the Supreme Judicial Court of Maine. Plaintiff Searles attended college on an athletic scholarship playing basketball. He developed pain in his knees, was diagnosed with patellar tendinitis, and contended that both the basketball coach and athletic trainer were made aware of his complaints but that the coach insisted he continue to play. He subsequently stopped playing and underwent 2 surgeries.

The court held that colleges, private schools, and public schools have a legal duty to exercise reasonable care toward their students. "That duty encompasses the duty of college coaches and athletic trainers to exercise reasonable care for the health and safety of student athletes."[36] An athletic trainer "has the duty to conform to the standard of care required of an ordinary careful trainer."[36] The appellate court held that whether the basketball coach breached his duty under the alleged facts was "a question of fact for the jury to consider."[36]

No national standard of care applies to healthcare providers covering athletic events; hence, healthcare 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. The standard of care is defined by common law principles and may be further defined by state and federal statutes, publications from organized governing bodies, as well as directives or recommendations published by state athletic associations, student handbooks, and memorandum and e-mails generated by school officials, administrators, and athletic directors, among others.[31] Potential liability may be alleviated under the circumstances by statutes providing immunity, Good Samaritan laws, liability waivers, and affirmative defenses such as the assumption of risk.

One method for gaining an appreciation of these issues is by examining published decisions of appellate courts in various jurisdictions about claims made against team physicians,

From †Pugh, Jones, Johnson & Quandt, PC, Chicago, Illinois, the ‡National Sports Law Institute at Marquette University Law School, Milwaukee, Wisconsin, and §Shugart, Thompson & Kilroy, Kanas City, Missouri
*Address correspondence to Eric F. Quandt, JD, Pugh, Jones, Johnson & Quandt, PC, 180 North LaSalle Street, Chicago, IL 60601-2700 (e-mail: equandtsports@pjjq.com).
No potential conflict of interest declared.
None of the information in this article is intended or should be considered as rendering any medical or legal advise whatsoever.
Special note: Mr. Quandt, Stephen Adams, MD, and Professor Mitten have organized the First, Second, and Third Annual Institute for Sports Medicine and Sports Law Conferences held in Chicago, Illinois, focusing on an interdisciplinary approach to current and complex medical and legal issues arising at the interface of Sports Medicine and Sports Law in Collegiate, Professional, Olympic, and High School Athletics. Additional information is available at www.ismsl.org.
DOI: 10.1177/1941738108327530

athletic trainers, coaches, schools, and others. This article will focus on high school athletics; however, similar issues have arisen in the context of club, college, and professional sports.

Areas of Potential Liabilities

Courts have recognized a number of areas of potential liability in the context of organized athletic events at the high school level. The following is a nonexhaustive list:

- Preparticipation physicals and screening examinations
- Providing or refusing initial medical clearance to play in any particular athletic activity
- Adequate facilities and the availability of adequate medical equipment for use by team physicians and/or athletic trainers
- Providing adequate training in the use of particular safety equipment and gear by the athlete
- Planning for athletic injuries and emergency situations that may arise in the context of any individual athletic event and having those involved (including but not limited to physicians, team athletic trainers, and coaches) knowledgeable with the applicable plan
- Diagnosis and treatment of injuries occurring during the athletic activity
- Return-to-play medical decisions following assessment and treatment of injuries
- Informed consent in the context of clearance to play
- The relationship between a team physician and athletic trainer (whether certified or not) and appropriate supervision
- Recommendations for and follow-up medical care and assessments
- Inappropriate disclosure of confidential medical information, including violation of federal statutes such as Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Family Educational Rights and Privacy Act (FERPA)
- Inadequate certification/training/supervision of coaches, physicians, athletic trainers, and others
- Potential contributory negligence by the athlete
- Maintenance of, knowledge of, and prescription of pharmaceutical drugs and other supplements

Following are recent examples of how courts have addressed potential liability of physicians, trainers, coaches, and schools.

Return to Play

In return-to-play cases, student-athletes usually allege the coach or trainer negligently allowed the athlete to return to a game after suffering an injury. Courts must determine what standard of care is applicable to the person clearing the athlete to play.

Recently, the Supreme Court of Nebraska in *Cerny v Cedar Bluffs Junior/Senior Public School (Cerny I)*[4] defined the standard of care applicable to football coaches who allowed a player to return to play and practice after sustaining a concussion during a football game. During the subsequent practice, the player suffered a closed head injury with second concussion syndrome causing a traumatic brain injury. The court held the standard of care "is that of the reasonably prudent person holding a Nebraska teaching certificate with a coaching endorsement." The court further held that the finder of fact (a jury or the judge in a bench trial) had to determine what conduct was required by that standard under the circumstances of allowing a player to return to play. This determination could be aided with expert testimony from the parties.

The court in *Cerny I* returned the case to the trial court for trial. The coaches and school were found not to be liable. The player appealed a second time to the Supreme Court of Nebraska (*Cerny II)*.[5] The court affirmed the lower court ruling, which found that in the event a player has sustained a head injury, the conduct required of a reasonably prudent person holding a Nebraska teaching certificate with a coaching endorsement during the relevant time period was as follows:

1. To be familiar with features of concussion
2. To evaluate player who appeared to have suffered head injury for symptoms of concussion
3. To repeat evaluation at intervals before player would be permitted to reenter game
4. To determine, based upon evaluation, seriousness of injury and whether it was appropriate to let the player reenter the game or to remove the player from all contact pending medical examination

Unlike professional sports and to a lesser degree collegiate competition, where team physicians are uniformly on the sidelines, one could question why coaches should even be involved in such a "medical" decision.

In *Yatsko v Berezwick,*[46] plaintiff was a starting player on her high school basketball team. She filed a civil rights claim against her coaches and school district based on their request of her to play in a basketball game after being struck in the head during a game. The plaintiff alleged that immediately after being injured, she told the coaches she was hurt, and the next day she informed her coaches that she had suffered a concussion. She alleged that the coaches told her she was the team's tallest player and needed to play in that night's game. Plaintiff claimed they observed her shaking and having difficulty participating during warm-ups but still played her in the game. The plaintiff's mother took her to the hospital after the second game. Plaintiff alleged that the delay in receiving medical treatment caused her to suffer an exacerbation of her neurological condition.

Plaintiff alleged that her coaches and school district violated her substantive and procedural due process rights under 42 USC §1983. In dismissing plaintiff's complaint, the federal district judge in the Middle District of Pennsylvania held that plaintiff could not meet her burden of proof of showing her constitutional rights were violated under the circumstances. The court held plaintiff had to show her coach's actions "must be so ill-conceived or malicious that 'it shocks

the conscience.'"[46] The court reviewed the allegations in the student's complaint and held that she could not meet this burden.

In *Zemke v Arreola,*[47] 16-year-old Nicholas Zemke sustained a severe and debilitating head injury while playing varsity football for his high school. During a game he suffered a dislocated finger, which was treated by the athletic trainer and team physician. The coach asked the team physician whether the player was "done for the day" and was advised that they could tape it up and that he would be fine and ready to go. Thereafter the coach asked the player if he was ready to go; the player responded that his finger was fine, but that "I'm not ready to go in now." The coach responded, "Okay, when you are ready to go in, come back and let me know." He soon resumed play and collapsed during a time-out, having suffered a right subdural hematoma. The player sued the coach and school district, presenting an affidavit from a neurologist that the player's brain injury was caused by second impact syndrome.

Of importance, before resuming play, the injured player apparently reported symptoms consistent with a head injury to other players (that he suffered a collision to his head, had blacked out, and had a headache) but never reported these symptoms to the athletic trainer, team physician, or coaches. The argument made by the injured player on appeal was that his statement that he was not prepared to reenter the game should have triggered an inquiry into why he chose to remain on the sidelines after his finger was treated and taped. The appellate court rejected this argument, noting that "here, sadly, Zemke [injured player] did not report to his coaches or medical staff the critical facts about his injury—that he had suffered a collision to his head, that he had blacked out, and that he had a headache—that might have alerted them to seek medical attention for head trauma and could have created a duty to prevent further head injury."[47]

These cases should provoke discussion among coaches, trainers, and team physicians about minimizing legal liability in these circumstances. Recognition needs to be given to the necessity of clear communication and good documentation.

Inherent and Assumed Risks

Issues that arise frequently are whether the risk of injury was inherent to any particular sport and whether the athlete assumed the risk of injury by participating in the sport. If a coach, trainer, or physician acts in a way that increases risks inherent in playing a particular sport, their actions could serve as a basis for potential liability.

In *Kahn v East Side Union High School District,*[16] a high school swimmer broke her neck while practicing a dive. She brought a personal injury action against her coach and the school district. Plaintiff provided sworn testimony that she had not received any instruction from her coaches on the performance of a shallow-water dive, that she had expressed a mortal fear of performing such a dive, that her coach had assured her she would not be required to perform one, and that the coach made a last-minute demand that she perform the dive at a swim meet. The lower court held that the coach "merely challenged her to go beyond her current level of competence" and dismissed the case.[16] The Supreme Court of California reversed the decision. The court first acknowledged that "the risks associated with *learning* a sport may themselves be inherent risks of the sport, and that an instructor or coach generally *does not increase the risk of harm* inherent in learning the sport simply by urging the student to strive to excel or to reach a new level of competence."[16] However, under these circumstances, the court found the evidence could show that the coach did more than just urge the student to excel.[16] The court held that "[a] sports instructor may be found to have breached a duty of care to a student or athlete only if the instructor intentionally injures the student or engages in conduct that is reckless in the sense that it is 'totally outside the range of the ordinary activity' involved in teaching or coaching the sport."[16] Under the circumstances presented, the Supreme Court of California held the case should not have been dismissed; rather, the plaintiff had the right to prove her case at trial.[16]

In a post-*Kahn* decision, the Supreme Court of California more recently affirmed that players assume certain risks in participating in sports.[3] In *Avila v Citrus Community College,* a student playing baseball for his community college was injured by a pitch intentionally thrown at his head, which cracked his batting helmet. Staggering and dizzy, he made it to first base, and was told by a coach to stay in the game. He proceeded to second base and was eventually removed from the game with unspecified injuries. Plaintiff sued his school and the opposing school.

The California Supreme Court granted review "to address the extent of a college's duty in these circumstances."[3] Relying on *Kahn v East Side Union High School,* the court held that in interscholastic and intercollegiate competition, the host school and its agents owe a duty to home and visiting players to not increase the risks inherent in a sport. The court ruled that "the doctrine of primary assumption of the risk bars any claim predicated on the allegation that the [opposing team's] pitcher negligently or intentionally threw at [plaintiff]."[3] The court explained, "[f]or better or worse, being intentionally thrown at is a fundamental part and inherent risk of the sport of baseball. It is not a function of the tort law to police such conduct."[3]

In *Zemke v Arreola,* discussed above, the California Court of Appeals also noted that "the risk of a head injury is inherent in the sport of football" and that "coaches and instructors have a duty not to increase the risks inherent in sports participation."[47] Similarly, in *Vendrell v School District No 26C,*[41] the Oregon Supreme Court held that a school district was not legally responsible for a football player's neck injury suffered while making a tackle. Finding that the school had provided extensive training, as well as competent instruction and supervision, the court concluded that the plaintiff assumed the risk of injury under these circumstances.

The Illinois Supreme Court recently weighed in on this issue in the context of a community-based, amateur hockey league,

in which the players were minors.[18] In *Karas v Strevell,* a minor-athlete was injured when he was checked from behind during a hockey game in violation of league rules. The named defendants were other hockey players, the hockey league, a hockey official's organization, and the amateur hockey association. Plaintiff claimed that all 3 organizational defendants had failed to adequately enforce the rule against bodychecking from behind.

The court held that rules violations "are generally considered an inherent risk of playing the game." The court held that an ordinary negligence standard did not apply in this situation.[18] The court held that "[t]o successfully plead a cause of action for failing to adequately enforce the rules in an organized full-contact sport, plaintiff must allege that the defendant acted with intent to cause the injury or that the defendant engaged in conduct 'totally outside the range of the ordinary activity' involved with coaching or officiating the sport."[18] The Illinois Supreme Court held that plaintiff failed to allege a cause of action and affirmed the dismissal of the player's case.

Most recently, in *Wilson v O'Gorman High School,*[45] a federal court in South Dakota considered but rejected the California Supreme Court's rationale in *Kahn.* Andrea Wilson was an accomplished gymnast who during a high school practice landed on her back attempting a reverse hecht. She was severely injured and lost the use of her legs. She brought suit against her coaches and school.

After a thorough discussion of the *Kahn* decision, the federal court held that the South Dakota Supreme Court would not adopt the *Kahn* standard, but rather apply the general negligence standards set forth in South Dakota statutes. Hence the court denied defendants' motion for summary judgment on the standard of care issue.

Additionally, defendants argued that plaintiff knew the sport of gymnastics carried with it inherent risks and assumed those risks. In rejecting that argument, the federal district judge held that a question of fact existed whether the plaintiff knowingly assumed the risk that her coach would act negligently.

The *Wilson* case points out the importance of understanding the application of individual state laws.

Governmental Immunity

An example of the legislature modifying or trumping the common law is the enactment of statutes that limit the liability of state employees, such as coaches and medical personnel employed by state schools. The immunities available to state employees will depend on the nature of the conduct at issue and whether willful and wanton conduct was involved. For instance, intentional acts such as assault and battery will not be immunized from suit.

A scenario that we saw before in *Kahn* played out differently before the Supreme Court of Alabama in *Feagins v Waddy.*[10] A student at a Birmingham middle school was participating in a track and field event. Her coach requested that she perform the high jump, which she had never done previously. After receiving some reassurance from her coach, she attempted a practice jump, fell, and tore her ACL. The student sued her coach, the athletic director, and the school district, claiming that the coach and director should be liable for requesting that she perform the high jump. In dismissing the lawsuit, the court held that the coach and athletic director had immunity for their discretionary acts as state employees. Discretionary acts are those that require the use of formulating plans and making judgments in the fulfillment of their governmental duties. "By selecting which participants would participate in which event, [the coach] was exercising his judgment in discharging his duties in educating students, and we may not second-guess his decision."[10]

In an earlier case, *Giambrone v Douglas*,[11] the Supreme Court of Alabama applied state agent immunity in dismissing a case against the athletic director and high school principal, but found such immunity did not apply under the circumstance to the coach. In *Giambrone*, a high school wrestler suffered a severe spinal cord injury, rendering him quadriplegic, as a result of a "challenge match" with the high school wrestling coach.

Immunities are also available in civil rights cases. In *Livingston v DeSoto Independent School District et al,*[23] a high school student became seriously ill after running on an outdoor track as part of training activities for the girls' basketball program. The coach took her to the school's athletic training room and the head athletic trainer diagnosed her with heatstroke. She was taken to the hospital and died.

Her estate filed suit in federal court under 42 USC §1983 against the coach, the head athletic trainer, and the school district. A federal court in Texas dismissed the claims and held that the individual defendants did not act with the requisite culpability to defeat a claim of qualified immunity, which in this case was deliberate indifference toward the student's constitutional rights.

Exculpatory Agreements

A common practice in student athletics is to have students sign a waiver or release prior to allowing the student-athlete to participate. Such documents are construed narrowly and sometimes do not seem to afford any additional protections.

For instance, in *King v University of Indianapolis, et al,*[20] a federal court in Indiana held that a waiver form which identified risks involved in playing football such as serious injury or death did not include claims based on injuries caused by the school's negligence. A 19-year-old sophomore signed an "Assumption of Risk" form prior to participating with the school's football team. The form acknowledged that catastrophic injury, including permanent paralysis, brain injury, and death, were risks associated with the sport. During a football practice, the student suffered heatstroke and died. In refusing to dismiss the case, the court held that although the student's signature on the form constituted an assumption of risk of injury associated with playing the sport, it did not include injuries caused by the school's negligence.

A Wisconsin appellate court recently held a waiver was unenforceable in a case involving a horseback-riding student.[26] The

waiver provided that the student was prevented from suing in the event she was injured during riding and for injuries sustained not related to riding.[26] During a lesson, the student's leg hit the side of a corral, and she fell from the horse with her foot caught in the stirrup. The student was dragged by the horse as it ran out of the corral. The court held that the release signed by the student was overly broad, all-inclusive, and "[did] not clearly inform the signer of what was being waived."

Refusal to Clear for Participation

When students are not cleared to participate in student athletics, the decision can have significant consequences in their lives. Lawsuits based on these decisions request the courts to put themselves in the place of the decision-makers, but courts have been reluctant to play that role.[19]

In *Knapp v Northwestern University*,[21] a team physician would not clear a student to play basketball because of the student's cardiovascular irregularities. Plaintiff brought suit under the Rehabilitation Act of 1973 claiming discrimination as a disabled athlete.[24] Both sides presented expert testimony as to the seriousness of the condition and the risk of injury (in this case heart failure and potential death). The Seventh Circuit Court of Appeals held that the team physician and school, and not the court, were in the best position to evaluate all the factors related to deciding whether a student with a health condition should participate in its athletic program.

Although schools are entitled to great deference with regard to their decisions allowing students to participate in their athletic programs, courts have recognized such a decision may infringe other constitutional rights. For instance, in *Hadley v Rush Henrietta Central School Dist,*[13] a New York student had already obtained a waiver from receiving immunizations in order to attend classes based on his religious beliefs. However, the school was also requiring its student-athletes to be vaccinated before participating in school-sponsored athletic programs and prevented the student from participating in sports even though it allowed the student to attend class. The court recognized a potential for harm to the student's rights under the First Amendment and temporarily enjoined the school from immunizing the student or preventing him from participating until an administrative review of the student's case could be completed.

Good Samaritan Laws

Every state has enacted "Good Samaritan" laws, which are statutes designed to protect individuals from civil liability for acting negligently while providing voluntary emergency care.[40] In general, the goal of Good Samaritan legislation is, by limiting legal liability to those who render emergency care, to "encourag[e] the rendering of medical care to those who need it but otherwise might not receive it (ordinarily roadside accident victims), by persons who come upon such victims by chance."[40] From state to state, however, Good Samaritan laws vary greatly, both as to the categories of people the statutes protect, and as to the circumstances in which they apply. Further, some statutes contain definitions and exceptions that greatly limit their application.

From state to state, Good Samaritan laws differ greatly in terms of who they protect. Some laws extend legal protection to all persons who render emergency care; under others, only certain classes of people, such as nonphysicians, are protected.[40] Additionally, some states' courts hold that when individuals owe a duty of care, they are not protected by Good Samaritan laws.[8,15] Others, such as Illinois, have removed this requirement.[32] This is an important consideration as team physicians and athletic trainers have been adjudicated to owe duties of care under numerous circumstances, and hence, may not be protected. Some states specifically provide protection for athletic personnel rendering emergency medical care to athletes, although those statutes differ in terms of whom they protect.[1,17,27,37] Given that significant variations exist from state to state, physicians, athletic trainers, and other interscholastic volunteers should endeavor to familiarize themselves with the laws of their states.

Good Samaritan statutes only apply in certain circumstances. Most states provide immunity for acts or omissions of persons who render care only when that care is provided (1) in an emergency[7,33,38]; (2) at the scene of the emergency[39]; and (3) without compensation.[9,35] A recent Georgia decision denied Good Samaritan protection to a doctor who was finishing his workout near a high school practice field when he was alerted by a bystander that a football player was injured.[12] On the field, the doctor examined the player and found that he had a dislocated hip.[12] The doctor accompanied the player in the ambulance to the hospital. Once there, he performed a "closed reduction" of the hip. When sued for malpractice, the doctor sought protection under Georgia's Good Samaritan Act. The decision turned on the question whether the player's injury was an "emergency" under Georgia law, which defines "emergency care" as "unforeseen circumstances that calls for immediate action."[30] Because of conflicting testimony between expert physician witnesses as to the injuries' seriousness, the court held that a jury must decide whether the injury constituted an "emergency"—and thus whether the doctor was protected by the Good Samaritan statute.[12]

Further, the Good Samaritan Act may not apply where "volunteers" are in some way compensated for their services.[6,25,34,44] But "compensation" can come in many forms and is subject to judicial interpretation.[9,14] It remains to be seen if a court might hold that immunity under the Good Samaritan law is unavailable if a team physician or athletic trainer receives gifts, food, or intangible benefits, such as self-promotion.

Finally, at least 1 state has noted that its Good Samaritan statute affords little protection to volunteers. In *L.A. Fitness Intern LLC v Mayer,* a Florida appellate court held "the Good Samaritan statute, which purports to insulate from liability those who assist injured parties in an emergency, in truth, provides very little protection" because it provides that only people acting as "ordinary reasonably prudent person[s]" are protected.[22]

Given all of these considerations, volunteers at interscholastic sporting events simply cannot assume they are protected by these statutes if they provide emergency medical care at a

sporting event; they must pay specific attention to their states' laws to determine whether they would be protected by these statutes.

In addition, some protection is offered by the federal Volunteer Protection Act (VPA).[42] The VPA provides that "no volunteer of a nonprofit organization or governmental entity shall be liable for harm caused by an act or omission of the volunteer on behalf of the organization or entity if … the volunteer was acting within the scope of the volunteer's responsibility in the nonprofit organization or governmental entity at the time of the act or omission."[43] For instance, in one case a court found that the VPA granted the volunteer coach of a nonprofit soccer club immunity from liability for personal injuries his player suffered after the coach allegedly tripped and fell onto him during practice.[2] However, the court held that the nonprofit soccer club itself was not immunized by the VPA. Even though the plaintiff's claims against the soccer club were brought solely under an agency theory, the court found that the club was not entitled to immunity based on the plain language of the VPA.[2]

Relationship of Physician and Athletic Trainer

The National Athletic Trainers' Association (NATA) defines certified athletic trainers as "health care professionals who specialize in preventing, recognizing, managing, and rehabilitating injuries that result from physical activity. As part of a complete healthcare team, the certified athletic trainer works under the direction of the licensed physician and in cooperation with other healthcare professionals, athletic administrators, coaches, and parents."[29]

Hence, in rendering healthcare to athletes, certified athletic trainers need to be cognizant of their relationships to the licensed physician as part of the healthcare team and, concomitantly, the physician needs to be cognizant of athletic trainers providing healthcare services under his or her direction and supervision.

The differences existing between physicians and athletic trainers can give rise to differing liabilities and protections under the law. In *Morris v Administrators of Tulane Education Fund,*[28] a nationally ranked student tennis player injured her left foot and sought treatment by the athletic trainer employed by the university. Following treatment the player was subsequently cleared by the trainer to play in a tournament. She was then seen by a physician who diagnosed a stress fracture. She underwent several surgeries, which eventually ended her tennis career. Suit was brought against the university for delay by the athletic trainer in obtaining medical attention. The Louisiana Appellate Court held that certified athletic trainers are not automatically provided the protections afforded "healthcare providers" under the Louisiana Medical Malpractice Act and such must be decided at the trial court level on a case-by-case basis.

The court in *Searles v Trustees of St Joseph College*[36] noted that, similar to physicians, expert testimony is required to prove an athletic trainer deviated from the standard of care in most circumstances. However, in that case, the proof at trial rested upon conflicting testimony between the basketball coach and the athletic trainer, as to what, if anything, was communicated by the athletic trainer to the basketball coach. The court held that under these circumstances "Searles [the plaintiff] did not have to provide expert testimony about the standard of care applicable to an athletic trainer. Jurors could apply their common knowledge in determining whether such failures, if they occurred, constituted a breach by [the athletic trainer] of his duty to exercise reasonable care for the health and safety of [student athlete]."[36]

CONCLUSION

Although the tort principles involved in covering athletic events are oftentimes generalized, the recent cases discussed above, while not exhaustive, are examples of the types of litigation that can arise—and indeed did arise. Individuals volunteering their services need to be aware of the scope of both potential liabilities and protections applicable in their particular state. As seen above, the laws may vary greatly from state to state. Hence, coaches, team physicians, athletic trainers, and school administrators need to understand these principles as applied by the courts in their states in order to undertake steps to minimize liabilities. With an understanding of this background, foresight, effective communication, and documentation among all involved and appropriate concern for student health and safety are the best means of minimizing potential legal liability.[28]

ACKNOWLEDGMENT

The authors give special acknowledgment to Stephen Adams, MD, and Robb Jones, JD, for their assistance and contributions. Stephen Adams, MD, is a professor of medicine and emergency medicine at Northwestern University Feinberg School of Medicine, chief of the Division of Sports Medicine in the Department of Medicine, and the team physician for the Chicago Cubs National League Baseball Club. Robb Jones is the senior vice president and general counsel for claims management and risk research at United Educators (UE) Insurance Risk Retention Group, where he is responsible for liability claims management for more than 1200 colleges, universities, and K-12 schools. He also manages UE's group of professionals who perform research and offer technical advice on risk management. Mr Quandt thanks John Broderick and Jonathan Cifonelli, lawyers for Pugh, Jones, Johnson & Quandt, PC, for their contributions. Additionally, Mr Quandt expresses gratitude to Michael Schafer, MD, Gordon Nuber, MD, and Mark Bowen, MD, for educating him on sports medicine through several decades.

REFERENCES

1. Ariz Rev Stat Ann §32-1472.
2. *Avenoso v Mangan,* No CV054009152, 2006 WL 490340 (Conn Super Ct February 14, 2006).

3. *Avila v Citrus Community College,* 131 P3d 383 (Cal 2006).
4. *Cerny v Cedar Bluffs Junior/Senior Public School,* 628 NW2d 697 (Neb 2001).
5. *Cerny v Cedar Bluffs Junior/Senior Public School,* 679 NW2d 198 (Neb 2004).
6. Colo Rev Stat Ann §13-21-108(1).
7. DC Code Ann §7-401(a) (2001).
8. *Deal v Kearney,* 851 P2d 1353, 1356-57 (Alaska 1993).
9. *Estate of Heanue ex rel Heanue v Edgcomb,* 823 NE2d 1123 (Ill App Ct 2005).
10. *Feagins v Waddy,* 978 So2d 712 (Ala 2007).
11. *Giambrone v Douglas,* 874 So2d 1046 (Ala 2003).
12. *Gilley v Hudson,* 642 SE2d 898, 900 (Ga App Ct 2007).
13. *Hadley v Rush Henrietta Central School Dist*, 409 F Supp 2d 164 (WDNY 2006).
14. *Henslee ex rel Estate of Johnson v Provena Hospitals,* 373 F Supp 2d 802 (ND Ill 2005).
15. *Hirpa v IHC Hospitals Inc,* 948 P2d 785, 788 (Utah 1997).
16. *Kahn v East Side Union High School District,* 75 P3d 30 (Cal 2003).
17. Kan Stat Ann §65-2891.
18. *Karas v Strevell,* 884 NE2d 122 (Ill 2008).
19. *Kerby v Elk Grove Union High School District,* 36 P2d 431 (Cal Ct App 1934).
20. *King v University of Indianapolis et al,* No NA01-0233-C-B/H, 2002 WL 31242233 (SD Ind 2002).
21. *Knapp v Northwestern University*, 101 F3d 473 (7th Cir 1996).
22. *L.A. Fitness Intern LLC v Mayer,* 980 So2d 550, 561 n2 (Fla App Ct 4th Dist 2008, discussing FS §768.13).
23. *Livingston v DeSoto Independent School District et al,* 391 F Supp 2d 463 (ND Tex 2005).
24. Maron BJ, Mitten MJ, Quandt EF, Zipes DP. Competitive athletes with cardiovascular disease—the case of Nicholas Knapp. *N Eng J Med.* 1998;339(22):1632-1635.
25. *McIntyre v Ramirez,* 109 SW3d 741 (Tex 2003).
26. *Mettler v Nellis*, 695 NW2d 861 (Wis Ct App 2005).
27. Minn Stat Ann §604A.11.
28. *Morris v Administrators of Tulane Education Fund*, 891 So2d 57 (La Ct App 2004).
29. National Athletic Trainers' Association. What is an athletic trainer? http://www.nata.org/about_AT/whatisat.htm. Accessed July 3, 2008.
30. National Center for Catastrophic Sport Injury Research. Twenty-Fifth Annual Report Fall 1982-Spring 2007. http://www.unc.edu/depts/nccsi/AllSport.htm. Accessed November 6, 2008.
31. Kanaby RF, ed. *NFHS Sports Medicine Handbook.* 3rd ed. Indianapolis, IN: National Federation of State High School Associations; 2008.
32. *Neal v Yang,* 816 NE2d 853, 861 (Ill App Ct 2004).
33. NY Educ Law §6527(2).
34. Okla Stat Ann tit 76, §5(a)(1).
35. *Salte v YMCA of Metropolitan Chicago Foundation,* 814 NE2d 610 (Ill App Ct 2004).
36. *Searles v Trustees of St. Joseph College,* 695 A2d 1206 (Me 1997).
37. Va Code Ann 8.01-225.1.
38. *Velazquez,* 798 A2d at 58-59.
39. *Velazquez,* 798 A2d at 58.
40. *Velazquez ex rel Velazquez v Jiminez,* 798 A2d 51, 57 (NJ 2002).
41. *Vendrell v School District No. 26C,* 376 P2d 406 (Or 1962).
42. Volunteer Protection Act, 42 USC §14501.
43. Volunteer Protection Act, 42 USC §14503(a).
44. Wash Rev Code Ann §4.24.300.
45. *Wilson v O'Gorman High School,* No Civ 05-4158-KES, 2008 WL 2571833 (DSD, June 26, 2008).
46. *Yatsko v Berezwick,* No. 3:06CV2480, 2008 WL 2444503 (MD Pa, June 13, 2008).
47. *Zemke v Arreola,* No. B182891, 2006 WL 1587101 (Cal Ct App June 12, 2006).