

LEGAL UPDATES

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## Service

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# Troubling Trends in Collegiate Sports, Is Your Institution Prepared?

A recent survey conducted by the National Athletic Trainers' Association's (NATA) Intercollegiate Council for Sports Medicine (ICSM) indicated some troubling trends in the world of collegiate athletics. The survey, which was responded to at least in part by 1,796 collegiate athletics trainers, shows that just over half of the responding athletic trainers worked for programs that followed the NCAA-legislated independent medical model of care. This NCAA legislation is designed to ensure that athletic trainers and team physicians have autonomy to make decisions regarding the health and safety of student athletes without pressure from other athletic personnel, such as coaches. This survey comes on the heels of the publication of the Second Safety in College Football Summit's recommendation for Preventing Catastrophic Injury and Death in Collegiate Athletes, which was covered in our prior legal alert.

This survey underscores the need for continued improvement in the area of collegiate athletics health and safety. Among other findings, the survey found that about 30% of the respondents indicated that medical autonomy is affected based on which sport a trainer or physician works for. Another 18.73% reported that a coach had allowed an athlete to participate in an event despite being ruled medically ineligible. Finally, 36.32% of the respondents reported that a coach had influence in the hiring or firing of the athletic training staff.

In terms of exposure, violations of the independent model of care are violations of NCAA policy and best practice that could lead to unwanted risk and litigation. This is particularly true in instances where an athlete has been ruled medically ineligible, but is permitted to participate by a coach. In the event that an injury was sustained by a medically ineligible athlete, especially a catastrophic injury, the legal consequence could be severe for an institution.

Perhaps the most disturbing trend observed through the survey also provides a clear path for what colleges and universities can do ensure that their athletic

training staffs truly have autonomous authority. Just under half (49.41%) of survey respondents indicated that their institution has no formal document describing the independent medical model of care adopted by their school. In addition to providing an easy point of reference, adopting an official policy regarding the independent medical model of care can serve a starting point to placing coaches and athletic administrators on notice of their athletic training staff's authority. Adopting a written policy should also be accompanied by training for both athletic training and coaching staffs to ensure that all parties are aware of the proper channels used to determine what is best for a student athlete's health and safety.

Coaches and athletic training staff play an integral and connected role in ensuring that student athletes have successful, health experiences in collegiate athletics. Only through partnership can both groups provide the proper instruction, guidance, and care that each student athlete needs to succeed. Coaches should be and are encouraged to work closely with athletic training staffs to help understand an athlete's limitations as well as how to most effectively train student athletes. However, when it comes to the health and safety of these athletes, athletic trainers must be afforded the latitude to make medical decisions in the best interest of the athlete absent influence or pressure from a coach or other athletics personnel. Institutions must provide this latitude for the benefit of their student athletes and to fulfill their own legal obligations.

### **What this means to you**

Institutions should take proactive steps to both adopt an official written policy for their athletic departments concerning the independent medical model of care and to provide training to all athletics staff to ensure the policy is readily understood. Moreover, audits or investigations into potential abuses of this policy must be initiated when a violation is suspected. To help with this process, Husch Blackwell and the U.S. Council for Athletes' Health ("USCAH") have partnered to serve as a resource for your institutions in this area.

### **Contact us**

For more information on how we can help your institution, contact Hayley Hanson, your Husch Blackwell attorney or USCAH Director of Member Services Bob Sweeney at 614.595.1343.

Join us on October 24 for a webinar and learn more about transforming athletic healthcare and ensuring full compliance for your institution.