“Emergency Cases: Lessons Learned”

WALTERS INC
EDUCATION • CONSULTING • RESOURCES

Emergency Care in Sports

Renaissance Concourse Atlanta Hotel

February 18, 2023 5:40 - 6:00 pm

Objectives

- Review logic for establishing workable and executable procedures.
- Review failures to prepare for better future performance.

Opening Remarks

- In legal cases, you have to consider the opinion of 12 people in a jury box.
- I am going to report on some cases today, and how the jury responds is often not what one would anticipate.
- Big issue today - contracted ATs and professional liability.
- What happens when person who is covered under the Tort Claims Act of SC purchase professional liability insurance?
- ***An opinion or thought today is subject to change. As research, discovery, and best practices evolve, so do opinions.***

Definitions

Standard of Care

”Standard of care" is the level and type of care that a reasonably competent and skilled health care professional, with a similar background and in the same medical community, would have provided under the circumstances.

Definitions

Scope of Practice

Scope of practice describes the services that a qualified health professional is deemed competent to perform, and permitted to undertake – in keeping with the terms of their professional license.

State regulatory boards ultimately determine the requirements for health care practitioners to be eligible for licensure and which services can be provided by each clinician.

COLUMN

NCAA Bylaws, Guidelines and Recommendations as Part of Athletic Training Best Practices

BY ROD WALTERS, DA, ATC, AND DAVID COHEN, ATC, ESQ., NATA PROFESSIONAL RESPONSIBILITY IN ATHLETIC TRAINING COMMITTEE

Best practices are principles that must be embraced by health care providers and supervising administrators as not the gold standard, but the standard of care. By definition, best practice is a standard or set of guidelines known to produce positive outcomes if followed. Best practices in collegiate athletic training should be established after reviewing multiple factors, including regulations set by a governing body, such as the National Collegiate Athletic Association (NCAA), as well as relevant data and research, consensus statements and recommendations and resources from NATA.

Required regulatory acts must be reviewed and incorporated accordingly as violators can face civil or criminal penalty. Statutes, as well as regulatory acts, are law, and if violated, may involve a civil penalty, such as a fine, or a criminal penalty that may be an infraction, misdemeanors or felony and carry a host of different criminal penalties including fines, imprisonment or both.

Some best practices are determined by rules set by organizations that regulate certain professions. The U.S. Drug Enforcement Agency (DEA) is a good example of a specific agency that creates rulemaking regulations. When a new rule is proposed, there is a formal process to establish the regulation that generally involves posting the proposed regulation, allowing public comments, holding public hearings, reposting a revised regulation and then issuing the final regulations.

Administrative agencies, such as the DEA, provide regulations, or rules, as part of law because they often provide detail on how a rule will be carried out. These agencies may also issue guidelines, which are basic and often non-binding information regarding procedural rules, or changes of interest while rulemaking is taking place.

Similar to how the DEA sets regulations for federal and state legislatures to incorporate into best practice to prevent drug distribution, NCAA provides bylaws and guidelines that regulate collegiate athletics. In this case, NCAA bylaws are like the DEA's regulations.

NCAA was founded on the premise of student athlete health and welfare dating back to a response by President Theodore Roosevelt in 1905 after 18 traumatic college football deaths the previous year.

NCAA regulates student athlete competition and championships for more than 12,090 institutions and conferences divided among three divisions (I, II and III). While budgets may vary among divisions, all divisions share common safety rules and principles of governance.

NCAA bylaws are proposed and voted on by membership. NCAA guidelines and recommendations are drafted by NCAA committees and task forces based on requests by membership, institutions and conference leaders. NCAA membership is responsive to bylaws, but aren't compelled to follow recommendations or guidelines.

The parallel between NCAA and the DEA is acute as both membership and population are sensitive to regulations.

Prudent institutions follow best practices, and best practices are safe practices. NCAA has several bylaws related to health care, including mandatory pre-participation medical examinations (adopted January 2007); sickle cell trait screening and education (adopted January 2012); certification of strength and conditioning coaches (adopted April 2014); independent medical care (adopted January 2016); and acclimatization period, which was extended to seven days for August football practices in 2021.

Additionally, the Interassociation Recommendations on Preventing Catastrophic Injury and Death in Collegiate Athletes was unanimously endorsed by the NCAA Board of Governors as association-wide policy in May 2019.

For athletic trainers working in the college setting, the health care bylaws set by NCAA are important to know and to follow, ensuring they're addressed in their institution's best practices.

Institution sports medicine staff of athletic trainers and team physicians commonly establish operating procedures based on evidenced-based best practices. Areas of focus include emergency action plans, exertional heat illness, concussions, spinal injury, fractures and/or dislocations of major joints and other areas of practice. Guidelines and recommendations set by NCAA are only as good as the moral compass of people implementing them. The legitimacy of NCAA bylaws goes only as far as the level of enforcement.

Data has shown that athlete deaths are not occurring during football games, but in preseason and out-of-season conditioning periods. While rule modifications have the potential to decrease exertional deaths in certain situations, such as screening and education of sickle cell trait, the policy and procedures to prevent exertional catastrophic death haven't kept pace with strength and conditioning sessions and practice sessions producing high school and college athlete deaths.[1]

With this in mind, athletic trainers should consider shifting the focus to acclimatization to address conditioning principles and the difference in the bodies of student athletes. Many exertional injuries are simply the cause of the inability to dissipate heat from within these large bodies to the surface.[2]

Twenty-seven non-traumatic deaths occurred to NCAA football players from 2000 to 2017.[3] Deaths of student athletes – secondary to exertion – have occurred at all levels from Division III to Power Five institutions.

The July 2019 publication and mandate from the NCAA Board of Governors, Preventing Catastrophic Injury and Death in Collegiate Athletes, addressed institutional activities during transition periods.

The current acclimatization bylaws only pertain to football and only addresses preseason practices, which take place in August. Transition is defined as the first seven to 10 days of any new conditioning cycle including, but not limited to, return in January, after spring break, return in summer and return after an injury. Some institutions fail to follow established transition mandates.

Institutions are challenged with providing equitable care of student athletes by employing licensed and credentialed health care professionals operating within the framework of state practice acts. Many practice acts also identify standards for clinical practice.

NCAA's Sports Medicine Handbook is a compilation of guidelines on topics from administration, medical issues and special populations to equipment and facilities. NCAA tasked institutions with the responsibility of creating a safe environment for their student athletes to participate in an intercollegiate athletics program.

While many prudent health care providers embrace and implement the Sports Medicine Handbook guidelines, this isn't done across the board and, thus, the gray areas of interpretation and institutional latitude. The lack of clarity has long been a challenge, and until acclimatization and transition periods are enforced as bylaw, such as concussions and sickle cell trait screening, there will continue to be challenges.

References

1. Boden, B. P., Fine, K. M., Breit, I., Lentz, W., & Anderson, S. A. (2020). Nontraumatic Exertional Fatalities in Football Players, Part 1: Epidemiology and Effectiveness of National Collegiate Athletic Association Bylaws. Orthop J Sports Med, 8(8), 2325967120942490.
2. Boden, B. P., Fine, K. M., Spencer, T. A., Breit, I., & Anderson, S. A. (2020). Nontraumatic Exertional Fatalities in Football Players, Part 2: Excess in Conditioning Kills. Orthopaedic journal of sports medicine, 8(8).
3. Anderson S. NCAA Football Off-Season Training: Unanswered Prayers… A Prayer Answered. J Athl Train. 2017 Feb;52(2):145-148.

Independent Medical Care as an NCAA Bylaw

Independent medical care, or care independent from coach or administrator influence, is addressed in NCAA bylaw 3.2.4.19 and states: "An active member institution shall establish an administrative structure that provides independent medical care and affirms the unchallengeable autonomous authority of primary athletics health care providers (team physicians and athletic trainers) to determine medical management and return-to-play decisions related to student-athletes. An active institution shall designate an athletics health care administrator to oversee the institution's athletic health care administration and delivery."

This bylaw was voted on and approved by all three divisions within the NCAA. NCAA Chief Medical Officer Dr. Brian Hainline was interviewed in 2018 and stated, "NCAA legislation is indeed a 'rule' that member institutions are supposed to follow." That year, Hainline also told ESPN's Outside the Lines that schools that don't follow the rules should self-report an NCAA violation. Learn more at **www.espn.com/espn/otl/story/_/id/28116817/documents-claims-bring-ncaa-medical-care-issues-question**.

NCAA Bylaws, Guidelines And Recommendations As Part Of Athletic Training Best Practices. Rod Walters, David Cohen. Sports Medicine Legal Digest, Fall 2022, pp 8-9.

- NCAA has bylaws for member institutions to follow — **legitimacy of bylaws go as far as the level of enforcement.**
- Guidelines and recommendations are only as good as the **moral compass of people implementing them.**

Expectations of Care

- We need to define Best Practices as related to Standard of Care for your locale.
- Evidence based practice generally follows standard and accepted treatment with expected outcomes.

Tenants of care must be addressed regardless of your location or level of work.
- EAPs must be implemented
- Care must be rendered.

Sarah Wood/Logan Wood vs. Horry County School District

In April 2021, the jury found the School District liable for two occurrences of gross negligence:

1. Letting Plaintiff play football without an athletic trainer present for his team; and
2. Failing to evaluate Plaintiff for concussion symptoms.

Allocate resources according to the risk of injury.

Alabama HS Concussion Case (Settled)

- Student's mother complained to coach about son's headaches (had just begun to play HS football after being recruited to the team, was a very good athlete).
- Student was not withheld from activity, and sustained a subsequent blow to the head producing a subdural hematoma.

Coaches - share what information you know, even if from a parent.

Dehatia Myers v. FCA

- High School Football Thud Camp.
- Student participated and drills were actually full contact scrimmage with tackling opponents to the ground.
- Failure to follow rules of event; lack of acclimatization, resulting in cervical spine fracture with paralysis.

Thud is not full contact. Failure by all staff.

Estate of Star Ifeacho, Peace Ifeacho, vs. Cody Begley, and Gabrielle Sombelon

- Appropriate equipment was not on-site for to provide care in the event of injury (including but not limited to airway adjuncts, blood pressure cuff, stethoscope, and AED). The AED was not accessible within a 3 minute response time.
- Failure to activate the EAP in a timely manner.
- No evidence of review and rehearsal of the EAP should include all relevant members of the sports medicine team (ie, coaches, athletic trainers, EMS).

Equipment must be up to date and in its proper location according to EAP

Hank Gathers v. Loyola Marymount University

12/9/89, Gathers collapsed at an LMU home game (exercise-induced ventricular tachycardia). Rx: beta blocker, Inderal. Gathers felt rx adversely affected his play, and his dosage was gradually cut back.

2/26/90, Gathers' medication was reduced from 80 to 40 mg, on the condition that he undergo testing to confirm it was safe. No show for tests that week and avoided his cardiologist's office.

3/2/90 - long talk with the cardiologist, who told him to play and come in for the testing after the tournament concluded.

3/4/90 - Gathers collapsed again with 13:34 left in the first half.

Kleinknecht v. Gettysburg College

The Kleinknecht v. Gettysburg College, case does not hold that a university sponsoring intercollegiate athletics has a legal duty to have a certified athletic trainer present at all games, practices, and training sessions. The case does require a university to have an appropriate medical emergency response plan as well as provide reasonable emergency care to injured athletes.

Douglas Brenner v. Willie Taggart; NCAA; Irele Oderinde; and Univ of Oregon

- University of Oregon failed to supervise and validate Strength and Conditioning Coach Oderinde's credentials and qualifications.
- During his initial days of work (January 2017) directed a workout program void of conditioning principles of progression, readiness, and appropriateness.
- The invoking of multiple repetitions of the same exercise the first day of workout was an excessive use of exercise as punishment.
- University of Oregon failed to monitor Strength and Conditioning Coaches:
  - Relative to utilization of acclimatization principles.
  - To see that new activity was introduced gradually and in accordance with accepted practices. The transition period was ignored.
- The NCAA never investigated this incident of multiple cases of exercise induced rhabdomyolysis nor the other 30+ deaths of student-athletes secondary to exertional conditions.

Nassar Case

*What Started as **Concerns** for Chaperoning*

- Female healthcare provider caring for a male.
- Male or female healthcare provider caring for transgender.
- Any private evaluation or treatment should include a chaperone.

*Has Morphed Into **Standards** for Chaperoning*

- A colossal failure of the duty to protect students.
- Male healthcare provider caring for female.

Credentialing and Privileges

Qualified Medical Professional

- An individual who is **qualified by education, training, licensure/regulation (when applicable), and facility privileging (when applicable)** who performs a professional service within his/her scope of practice and independently reports that professional service."

NCAA has bylaws related to health care but they are far from inclusive of Standards of Care.

WALTERS INC
EDUCATION • CONSULTING • RESOURCES

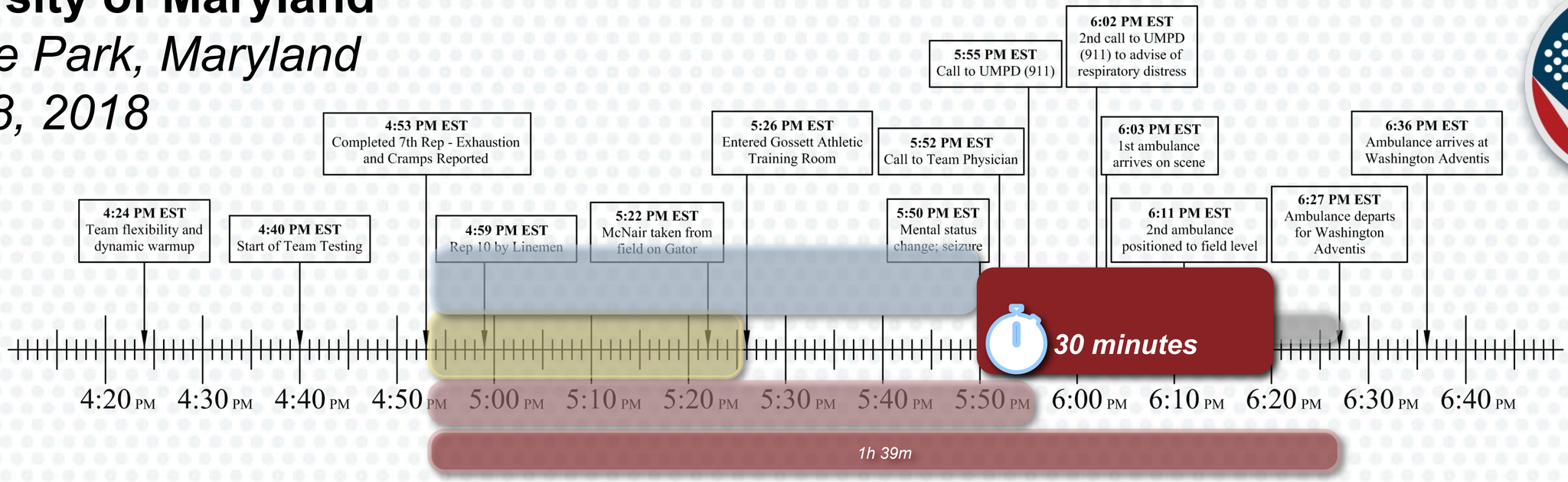
What are the recurring themes among cases?

1. Failure of the venue specific EAP. No coverage model, planning or training.
2. Failure to take and record trending vital signs including failure to identify EHS by assessing core temperature.
3. Failure of Bylaws
   - Independent Medical Care
   - Use of exercise as punishment
4. Failure of Best Practices including failure to implement appropriate training regimen incorporating acclimatization and transition principles.
5. Ignoring Best Practices for appropriate care.

University of Maryland

College Park, Maryland

May 28, 2018



*Time from the onset of EAMC (following 7th rep) to being removed from field - **34 m 12s***

*Interval from EAMC to mental status change - **1 h 2 m***

*Time from onset of symptoms following 7th rep to 911 call - **1h 7m***

*Time from 911 call to departure from Field House - **37m 3s***

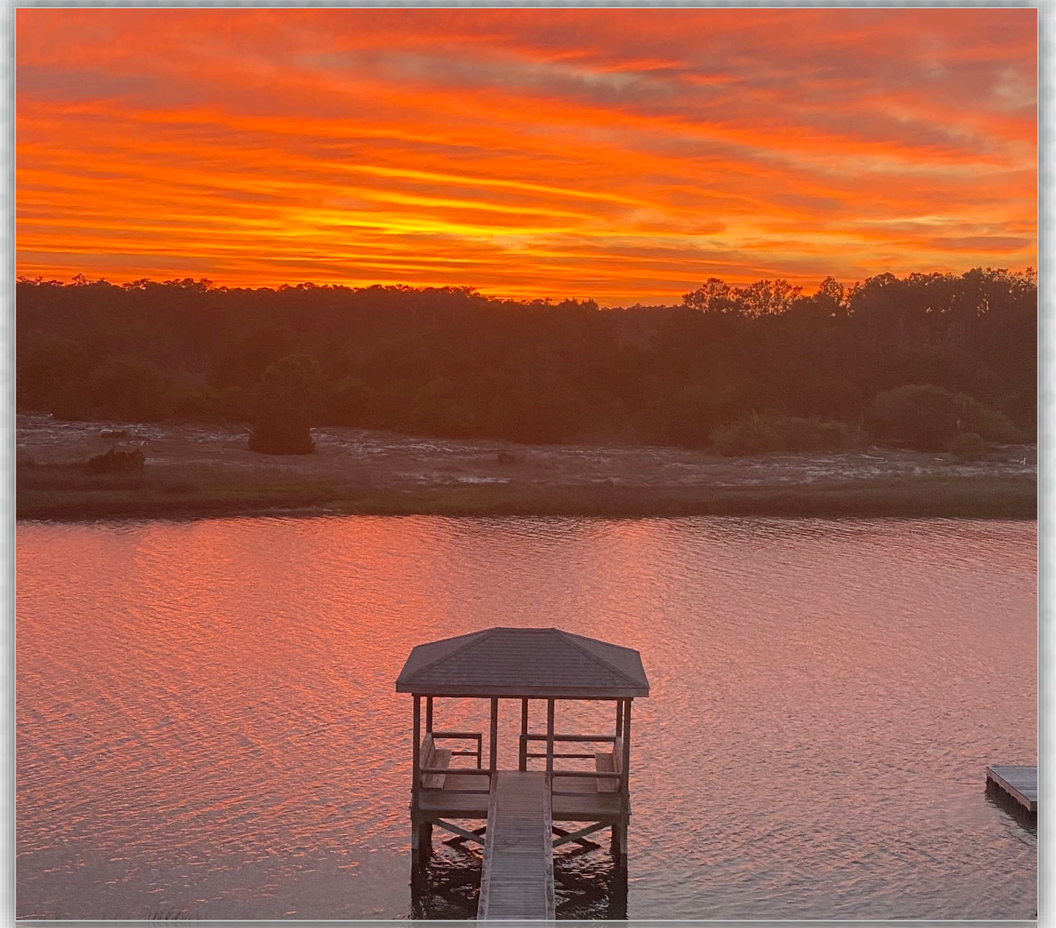
Walters, R. (2018). An Independent Evaluation of Procedures and Protocols Related to the June 2018 Death of a University of Maryland Football Student-Athlete. Available online at multiple sites.

WALTERS INC

EDUCATION • CONSULTING • RESOURCES

Acclimatization and Transition Periods

- August 2001 - Korey Stringer death:
  - NFL addressed EHS and has reported no deaths secondary to this condition.
  - 32 collegiate deaths with no NCAA investigation secondary to cause.
- No deaths reported in collegiate environment since 2018.



Reminders

- We have to be objective, we have to validate and document.
- You have to know it when you see it.
- You have to prepare your team to all have a hand on the parachute cord.
- Best practices are safe practices.
- There are some awesome references in the literature - we just have to embrace them.

Parsons, J. T., Anderson, S. A., Casa, D. J., & Hainline, B. (2019). Preventing Catastrophic Injury and Death in Collegiate Athletes: Interassociation Recommendations Endorsed by 13 Medical and Sports Medicine Organizations. J Athl Train, 54(8), 843-851.

- All practices and strength and conditioning sessions should adhere to established **scientific principles of acclimatization and conditioning.**
- Phase conditioning periods in **gradually and progressively to encourage proper exercise acclimatization** and to minimize the risk of adverse effects on health.
- The first seven days of **any** new conditioning cycle are considered a **transition period** and a time of physiologic vulnerability for athletes. And include:
  - Athletes include returning after an injury or illness
  - Returning after school break (e.g., winter, spring, summer)
  - Beginning as a delayed start.

Scenario — Summer Conditioning Workout

- Athlete is struggling with making times. History of struggling during workouts and being very dramatic.
- You go up to them and they are breathing heavy and cramping. Coach yells at them and they jump on the line and start running.
- In between reps you are giving them water and ice towels.
- They are mildly unstable with running but they are finishing and not stopping. They are being “dramatic” with moaning dropping on all fours and “gasping” for air. Then the jump back on the line and continue to go.
- They continue to be “encouraged to continue” by strength coaches and coaches.

Fatigue

Distress

Figure adapted from NCAA Sports Medicine Handbook, 2018

Signs of Fatigue

1. Not making assigned times
2. Moving slower than previously
3. Hands on hips
4. Cannot run but can walk.

Signs of Distress

1. Clumsy or wobbling
2. Panicked demeanor
3. Needs assistance to be held up
4. Cannot answer questions

WALTERS INC
EDUCATION • CONSULTING • RESOURCES

The athlete collapses . . .

- How would you answer this question? What criteria did you use to decide this athlete could continue to participate?

From the outside looking in:

- Athlete was struggling and not making times.
- They showed obvious signs of distress.
- They were yelled at to continue to go.
- No one was there “taking care of them”.

Thank you.

Rod Walters, DA, SCAT
rod@rodwalters.com