"PUT ME BACK IN DOC"
Ethical Issues in Sports Medicine

OBJECTIVES:

• Be familiar with the complex obligations of the team physician
• Identify and define the numerous legal and ethical issues involved in return to play decisions
• Define the team physician’s role when there are conflicting opinions in regards to returning to play.

Sports Medicine can be a “perfect storm” of ethical issues. An athlete gets hurt at a critical time for a team. This is not the simple office-based doctor patient relationship. There are many other influences on the most fundamental relationship in medicine, and in the 21st century, Hippocrates’ basic tenet - “Do no harm” - can be subject to interpretation.

The following Ethical issues are involved in these scenarios:

• Patient autonomy
• Beneficence
• Medico-legal concerns
• Conflict of interest
• Confidentiality
• Shared decision making

Slide 3: Introduction

Sideline coverage of a team provides a case study of many ethical issues which have to be addressed - not in the quiet of your office but in the “heat of the battle.” Doing the right thing is not as black and white as it was in Hippocrates’ day.

Slides 4-6: Case

You are covering a football game at your local high school. The starting running back is 17-year-old David Dunn who has just injured his shoulder. You are called over by the trainer to evaluate.
David is in obvious pain, weak and unable to raise his arm above 90 degrees. After removing his pads, you see a slight elevation of the distal clavicle at the AC Joint.

It is the third quarter of the final round of the playoffs. The winner of this game will go to the State Championship game, and David wants to go back in.

The coach comes over and asks if David, who is their all state running back, can go back in.

Slides 7-9: Questions

What do you do now?

What are the ethical issues?
What are the practical issues?

How much does each contribute to your decision?

If this were a professional athlete in the NFC playoffs, how would that change your approach?

Patient Autonomy and Beneficence

Autonomy literally means self rule. It is David Dunn’s body, and he can do what he wants with it. He can go back in and play if he so chooses. Beneficence on the other hand requires providing a net benefit, which in this case would involve sitting him out until his pain is better and his strength returns. Which of these two issues should prevail?

For the team physician, the patient’s physical well being has to take precedence. If this were an ACL tear or a fracture the course of action would be obvious, the athlete would be done for the day. But with an AC separation, while serious, it does not totally eliminate the possibility of playing. In professional sports the AC joint might be injected with a local anesthetic and the player returned to the game.
How should the physician’s role change if the patient is a minor? The little data available suggests that patients 14 and older may have the skills available to make their own informed medical decisions. Another complicating variable can be the level of play: a division III athlete may be handled differently than a future professional division I athlete. The division I athlete may be more inclined to exercise autonomy to protect his future financial potential rather than his physical health.

Slide 10: Case continued

The injured player, David, is the offensive coordinator’s son. He says that he will take responsibility for returning his son to play.

Slide 11: Questions

What now?
What are the legal issues?

Legal Concerns

The physician must adhere to standard or customary sports medicine practices, which are not always well defined, especially on the sideline. The physician should make medically reasonable decisions and provide sufficient medical information so that the athlete and or parents are aware of the risks in returning to play.

What happens, however, if the athlete’s parents offer to assume the risk of the decision to return their child to play. From a legal standpoint, two conditions have to be met for this to occur:

1. The athlete must fully appreciate the type and magnitude of the risk involved in continuing to participate.

2. The athlete must “knowingly, voluntarily and unequivocally” choose to participate.

In addition, the physician can have the parents sign an exculpatory waiver, which relieves him/her from liability, should the athlete get further harmed returning to play.

Is this acceptable to the team physician? What happens if only one parent agrees to sign and the other chooses not to, or is not present? What if the athlete wants to play, but the parents do not consent?
The time to determine a viable approach is not on the sidelines during a game or in the middle of the season but prior to taking on the job of team physician. The team physician must decide if the agreed upon approach is acceptable for him or her. A preseason agreement should be discussed with the athletic director, coaches, and trainer about how controversial decisions such as these will be handled.

**Conflict of Interest**

Another ethical issue raised here is the parent’s conflict of interest - not only as a parent but also in his role as a coach of the team. Again the best interest of the athlete’s health should be of primary importance, but in the heat of the moment, as in the playoff game, it may not be. This brings up the critical role of the team physician as an impartial observer on the sideline and not a member of the team or coaching staff.

**Slide 12: Case continued**

*The team wins, and the local sports reporter approaches you to discuss David’s shoulder injury and whether he will be able to play in the State Championship.*

**Slide 13: Question**

*What do you tell the reporter?*

**Confidentiality**

The inquiry by the reporter raises the question as to who has the right to health information about the athlete. For the team physician the athlete’s health information should be treated like that of any patient and his privacy respected. A violation of this right is unacceptable. Any disclosure of this information has to be determined by the athlete and family.

**Slides 14-16: Case continued**

*You hold David out of practice for the week. He misses his follow up appointment with you but shows up at practice on Thursday with a note from a physician clearing him to play in Friday night’s championship game.*

*There are many university scouts coming to see David play, and his parents believe his future depends on him playing in this game.*
You meet with David and his parents and inform them of the risks if David plays. You discuss their concerns, and all agree that the benefits outweigh the risks.

If another physician becomes involved in the care of the athlete, the question of legal risk to the team physician is once again raised, along with potential liability for the school system or other managing organization. If a risk waiver was signed in the preseason, then that can be an available option.

Are you aware that some school systems merely require a “Doctor’s note” without restricting the source to a specific physician? In this instance, an internist could feasibly clear an athlete with an injury over the objections of the orthopaedist. If the team physician disagrees with the decision made and believes that the athlete should not be returned to play, he/she has an ethical obligation to express these concerns to the coach.

**Shared Decision Making**

If the team physician has any concerns about the athlete’s safety, there is an obligation to voice those concerns. Shared decision making is an important tool in resolving the conflicts in this situation: for example, a discussion with all concerned individuals, each voicing their concerns and weighing the risks and benefits to the athlete before coming to a group consensus.

As athletes go from high school to professional sports it gets more difficult to prioritize the issues. Is a multi-million dollar income worth a cosmetic deformity at the AC joint, a limp with or without pain, or a total hip performed on a young individual? Whose role is it ultimately to decide this?

**Slides 17-18: Potential influences and ethical issues**

There are many arguments for and against removing the athlete from the game and in many cases there are questions as to who benefits the most from the decision. In some cases, it is not the athlete.

If David plays and does not sustain further injury, then the physician is the hero, especially if the team wins. This circumstance could lead to more notoriety for the physician, help with his/her reputation in the sports community, and result in a potential increase in patient referrals thereby benefiting the doctor with additional income.
If David is not allowed to play, the team may question your role as team physician (remember another doctor may “clear” the athlete with a “doctor’s note”) and seek a more “accommodating” physician elsewhere for future sports medicine care. It is paramount that the team physician keeps David’s present and future health as the absolute priority in these circumstances.

**Summary**

When an athlete gets injured, the team physician is faced with a much more complex relationship than the traditional office-based physician/patient relationship. While the primary obligation must remain the health and well being of the patient athlete, the physician should also be familiar with all the potential pitfalls and complex issues involved in this relationship.

**References**
