

Chapter 3: THE LAW OF SPORTS INJURY

- ❖ _____ (Slide 2). Coach’s decisions and actions are critical to the welfare of the athlete. _____ (Slide 2). A 1996 study of 104 high school coaches found that a significant percentage lacked adequate first aid knowledge. Also when a close game was at stake, a conflict of interest arose when a “starting player” was injured.
- ❖ The number of lawsuits has increased because of the increased number of participants, greater visibility of sports through the media, rising expectations regarding legal negligence, improved access to legal services, more acceptance by courts of comparative negligence settlements, and greater consumer awareness about sports services and products.

I. The Concept of Tort. **Tort** is defined as _____ (Slide 3).

A. In the context of sports, injury may result from someone else’s behavior, e.g., behavior of an opponent, an official, or a coach. Tort cases involving sports injuries generally seek monetary compensation.

B. To prove a tort, it must be established that someone (other than the athlete) acted in a negligent manner and injury resulted.

1. **Negligence** is a type of tort. It is defined as _____

_____ (Slide 3). Negligence involves the act of _____ (Slide 4), or _____ (Slide 4).

a. An example of negligence by act of commission is the high school football player who claims that permanent **quadriplegia** resulted from the coach’s improper first aid when a neck injury occurred during a game.

2. The four elements that must be present in order to prove negligence are duty, breach of duty, proximate or legal cause, and damage. See Time Out 3.1 on page 35 for definitions.

3. Other terms relating to tort cases include _____

_____ (Slide 5). See page 35 for definitions of these terms.

II. What is Your Liability?

A. Historically a coach employed by government institutions such as school districts or universities had some immunity for tort litigation under the doctrine of sovereign immunity that protected governmental institutions from liability claims. In recent times “sovereign immunity” has not guaranteed immunity from suit.

B. _____ (Slide 6).

C. Time Out 3.2 on page 36 describes seven potentially negligent actions by coaches, including _____ (Slide 7).

III. Are You Protected? The best protection against the risk of liability is to avoid the situations listed in Time Out 3.2. _____ (Slide 8).

A. **Good Samaritan Law**. Most states have Good Samaritan laws that provide legal immunity to citizens who voluntarily provide first aid to an injured person. Although citizens do not have a duty to provide such aid, school personnel and coaches have a duty to provide the care, and therefore, are not protected by Good

Samaritan laws.

B. To protect their assets, _____ (Slide 8). Contact your employer to determine if protection is provided. It's wise to assume that you are not covered and then determine if you are.

IV. How to Reduce Your Chances of Going to Court. The following nine preventive steps can reduce the chances of being sued:

A. _____ (Slide 9)

B. Be certified in basic or advanced first aid and CPR.

C. Develop a formal written emergency plan and have the plan examined by an attorney to make sure it meets all legal requirements.

D. Have a parental consent form for athletes under 18 years of age.

E. _____ (Slide 9).

F. Document all injuries, regardless of severity and include initial treatment measures.

G. Attend "in-service" seminars and/or postgraduate classes concerning the care and prevention of sports injuries and keep documentation of attendance.

H. _____

_____ (Slide 9)

I. Develop and maintain effective lines of communication among staff.

V. What to Do If You Get Sued

A. _____ (Slide 10)

B. Write a detailed description of all related events; if possible, obtain signed statements from witnesses.

C. _____ (Slide 10)

VI. Ethics of Sports-Injury Care. A coach must resist the temptation to circumvent recommendations of medical personnel when returning an injured athlete to play. Under no circumstance should an athlete be allowed to resume sports without the consent of a medical doctor.

VII. State Regulation of Athletic Training. Many states regulate athletic trainers. Regulation generally defines the scope and practice of athletic training in a particular state. Licensure is the "gold standard for professional regulation," and 33 states now require athletic trainers to be licensed to practice. Other forms of state regulation include registration, certification, and exemption. See Time Out 3.3 on page 39 for a list of states that regulate athletic trainers.