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Medico-legal Problems in Sports Medicine (Case Studies)

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Abstract

The role of sports physician does not end with treatment of sports injuries. Issues like age and sex determination, declaration of fitness, doping, HIV infection etc. are becoming more relevant these days. Sports physicians should be competent and conversant with these problems and they should always be cautious in dealing with these problems. Different legislation; increased awareness of the right among sporting population on one hand and management of sports injuries without proper facilities; fast decision making under pressure on the other hand, sports physicians are exposed to many medico-legal problems in the course of their employment. Few cases are discussed here to increase awareness among physicians dealing with sports.

Introduction

A registered medical practitioner should be conversant with the duties, rights, privileges and obligations of being a medical professional. Ignorance of these duties do not make valid excuse for dereliction and negligence of duties. Wilful and deliberate negligence will tantamount to malpractice and may call for legal proceedings[1]. Important legislation related to medical practitioners are: i) Constitution of India, 1950; ii). Consumers Protection Act, 1986; iii). Law of Torts; iv). Indian Penal Code, 1860; v). Medical Council Act, 1965 and vi). Employees State Insurance Act, 1948[2].

Sports injuries are common and often devastating. Besides, other issues like age and sex determination, declaration of fitness, doping etc. are gaining ground thereby increasing the responsibility of the sports physician. At the same time, there has been considerable increase in public awareness of rights. Along with these, current trend of litigation have made physician more vulnerable to legal liability.

Physicians should always take necessary precautions in their professional practice to avoid any charge of professional misconduct and negligence. Professional negligence or "malpraxis" (want or lack of reasonable care and skill or wilful negligence on the part of the medical practitioner in course of professional attendance on his patient leading to his bodily injury, sufferance or even loss of life) may be treated as civil or criminal malpraxis and a case may be taken up against the medical practitioner in a civil or criminal court. In civil malpraxis, the suffering or loss can be compensated with money but in criminal malpraxis the physician is liable for imprisonment with or without fine as per law. If the physician exercises reasonable care and skill in attending his patient, he need not worry for any litigation against him by the patient or party[3].

The generally accepted definition of the standard of care for medical practice is as follows - "A physician is under a duty to use that degree of care and skill which is expected of a reasonably competent practitioner in the same class to which

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he belongs, acting in the similar circumstances". Under this standard, advances in the profession, availability of facilities, specialisation or general practice, proximity of the specialist and special facilities and all other relevant considerations are included. Medical liability is based on the premise that any person who fails to act in a reasonable manner and causes another to be injured unnecessarily[1].

Sports persons and physicians interact in many situations which may not be possible to be included in a single ethical code. However, if a physician develops a suitable level of skill and knowledge and maintains it, he can practice sports medicine without fear of being sued. Besides, a basic understanding of medico-legal principles should diminish fears about being sued and should motivate physicians to practice sports medicine. In an attempt to increase awareness and familiarise the medico-legal principles among physicians dealing with sports, a few selected medico-legal cases are discussed in this article.

Illustrative Cases

Case No. 1: During 1990 Asian Games at Beijing, an Indian female hocky player was refused from participating in the competition. The player did not have requisite gender verification certificate from the representing country. Gender verification test was done at Beijing and she was declared "male" genetically.

Case No. 2: During a nation-wide sports talent search examination, a young female volleyball player from Haryana was declared overaged depending on her physical and biological characters against her age proof certificate issued by the school authority. Her parents went to court for the alleged injustice and damages done to her. Matter was finally handed over to a team of experts who ultimately confirmed the age.

Case No. 3 : During the selection of state players for the prestigious Subroto trophy, one footballer was declared overaged for his attempt to conceal age by shaving both his pubic and axillary hair. He protested to the authority that he had to do it on medical ground which the sports physician refused to accept since such condition needing shaving both pubic and axillary hairs are unknown.

Case No. 4: A football player after collision with an opponent fell on the ground. Suspecting neck injury the physician on duty checked the grip strength and was found alright. On the advice of the physician he was taken to the sideline outside the field and there he was found to be quadriplegic. The physician was blamed for not following the accepted guidelines of shifting the injured by using a stretcher.

Case No. 5: During a very competitive boxing bout, in the last round, a boxer with the better score had profuse nasal bleeding. The bout was stopped momentarily and the ring doctor was asked whether he should be allowed to continue or not. Ring doctor tried to control the bleeding for about 2 minutes but failed. He was declared unfit to continue the bout on medical ground and the opponent with lesser score was declared as the winner. The injured boxer protested against the bias decision of the ring doctor. Medical Commission and Indian Boxing Federation stood for the ring doctor after reviewing the video clips.

Case No. 6: In 1990, during the final selection, an internationally reputed hockey player was found physically unfit because of injury. However, he was selected as the captain of the Indian team with lots of pressure on the physician because his presence was of paramount importance for the team. After the dismal performance at the Beijing Asiad, another senior player complained against the selectors including the physician for declaring him fit. As a protest he resigned from participation in international competitions.

Case No. 7: Death of a footballer during the Santosh Trophy in Kerala was reported. Blame for the debacle was put on the organisers and the

physician on duty for their failure to provide life saving facility in the stadium. Following an investigation, the organisers were blamed by All India Football Federation.

Case No. 8: One Judo player was found unfit for participation in a competition because he had only one testis. Inspite of the physician's exhaustive explanation to the coach and parents about the danger of contact sports in such cases, his father on the insistence of the coach told the physician, "Why are you bothering him? You forget about his testes. He should play."

Case No. 9 : In 1991, a national record holder long distance walker was tested positive for anabolic steriod during a National Athletic Meet. He told that his physician had prescribed this without his knowledge. The physician was asked to give explaination. The physician explained that he prescribed rational drugs which were not in the International Olympic committee's banned list of medicines and he did not prescribe anabolic steroids in particular for the athlete. The athlete was finally asked to show the medical prescription. He ultimately confessed that he injected anabolic steroids by himself without prescription. He was banned for two years for doping.

Case No. 10: Before starting the XXV Olympic at Barcelona, 4 countries strongly protested against Magic (Earvin) Johnson who was tested positive for HIV infection joining the United States basketball "dream team". Ultimately a referendum issued by the Russian and the Medical Commission (International Olympic Committee) subdued the matter.

Discussion

To ensure an equal chance of winning for everyone, a female should compete only among females. The female participant should be physically and genetically female. Sex test for females started during XIX Olympic at Mexico to avoid participation of males among females.[5] It is mandatory to certify sex especially females before sending for international competitions by an accredited physician. In absence of such certificate, the host country would perform sex verification test.[6] In case no. 1, it was better to perform sex verification at the time of selection to avoid the huge expenditure involved in their training and movement. Sex determination from the absence or presence of Barr bodies in the cells of the buccal mucosa is the simplest and is least expensive. The Barr bodies can be detected in 40-50% of female cells, while in males they are present in less than 10%[1]. Only in doubtful cases chromosome studies is required to ascertain sex.

Issue of age determination does not arise on Olympic and Asian Games as there is no age group competitions. But this issue may arise in age group competitions as in cases no. 2 and 3. In such cases the physician should give his opinion regarding the age of the participant based on the findings of physical, dental and radiological examinations keeping in mind the racial and geographical variations.

Opinion and advice of the physician is very important. He needs quick decision making. Thus, the physician who provides health care services to the sports persons must be qualified and competent. He should always stand on his sound clinical knowledge without any external influence. Case no. 4 amounts to professional negligence on the part of the physician. He should not make any compromise in delivering standard health care services to the sports persons.

The legal liability of inaccurate/false certification are : i) when a certificate is admitted in the court of law as an evidence and proved to be false, the one who has issued it is liable for the same punishment as giving a false evidence i.e. ranging from 3 years imprisonment and fine to life imprisonment; ii) wilfully and recklessly issuing a certificate is a professional misconduct as per Indian Medical Council and punishable by striking

the name off the register, iii) alteration/additions in certificate with an intention to deceive attracts charge of forgery and is liable to 2 years imprisonment with fine, iv) liability for civil or criminal negligence charges in a suit filed by a person who suffered damages while acting upon such a certificate.[7] In cases no. 5 and 6 the question was whether the player was physically fit or not. Physical fitness was cleared by the physician and not by the selector or persons who gave pressure on the physicians. At the time of issuing such certificates the physician should remember the rules of issuing medical certificate and also the liability of inaccurate/false certificate.[7]

Death during competitions like in case no. 7 may be due to pre-existing disease of the participant or because of the injury sustained during the competition. Therefore, a thorough pre-competition check-up is necessary to avoid loss of life of sports persons. In most instances no standards are available to guide the physicians to screen for any silent pre-existing condition/disease like silent myocardial infraction. Nonetheless, physicians should be aware of the existence of such conditions and should perform suitable tests in doubtful cases. Physicians should remember that evaluation of physical fitness in such situation is neither an emergency nor a therapeutic emergency and that he is not compelled to give on-the-spot opinion. At present none of the stadia in India has full-fledged life saving facilities. The presence of a doctor in the field is a matter of protocol only. Most of the time competitions are held without a doctor. In such a situation the orgnisers are to be blamed. The doctor should ensure that all essential items are available in the complex and the organisers are well informed of the required items and services. To minimise delayed medical interventions there is a need to improve availability, accessibility and affordablity of the essential facilities or services and also a need to keep abreast with the advancement in management and technology in sports medicine.

The issue of participation in body contact events like Judo by a player with a single testis as in case no. 8, had been a great problem before 1991. In those days doctors excluded any player with a single or mal-descended testis from contact sports reasoning that such testes may be easily injured. Players with mal-descended testes were allowed to play after the testes have been replaced to the scrotum. However some physicians allow players with single testes to enter contact sports on the assumption that injury to the testes is rare if the supportive or protective cups are worn. This difference in opinion was finally resolved when American Academy of Paediatrics in 1991 recommended that a young player with absent or mal-descended testes can join contact or collision sports with the use of protective cups.[8,9] If a player with single testis is allowed to participate, the player, their parents, and the coach should be informed of the risk involved.

In case of doping as in case no. 9, physicians should have a thorough knowledge of the banned drugs which includes; stimulants, narcotics, anabolic steroids, beta-blockers and diuretics.[10] He should also know and do everything to upkeep the three basic principles of the Medical Commission, International Olympic Committee; (a) defence of medical ethics (b) protection of health of athletes and (c) ensuring an equal chance of winning for everyone.[10] Doping is against all these three principles and banning that long distance walker for two years was as per rules.[10] It is the ethical commitment of the physician to protect the health of the athlete and ensure an equal chance of winning for everyone. A physician may knowingly or unknowingly prescribe a banned drug to an athlete. Unfortunately the general practitioners are not well informed of the banned drugs and its alternatives. Therefore, there is still chance of continuing such prescriptions. Taking this advantage athletes almost always blame physicians

for prescribing such banned drugs without their knowledge. Ever since human quest for "success at all cost" remains, doping would remain in one way or other. Coaches, athletes would continue experimenting newer performance enhancing drugs without the knowledge of the physician. It is going to be a serious health problem for the next century.

Regarding participation of HIV positive sports person as in case no. 11, the risk of transmission after cutaneous or mucous membrane exposure is 0-0.04% (or about 10 times lower than parenteral injury).[11] The transmission among sports persons can be treated as a theoretical possibility. To bring HIV infected persons to the mainstream should always be appreciated instead of isolating them

Conclusion

Sports medicine contains unique traps into which the unwary physician may stumble. Sports physicians should familiarise with legal principles applicable to sports medicine. Understanding of such principles should diminish fear about being sued and should motivate physicians to practice sports medicine according to acceptable medical standards. Good medicine is good law and one should not fear legal reprisal in the presence of proper medical performance.

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