



A Compliance Checklist New Hampshire Concussion Management Law¹

Introduction

For at least the past 20 years, there has been much publicized debate about the dangers of concussions incurred by athletes engaged in sports activities. Even as early as 1933, the NCAA first acknowledged that “the seriousness of concussions was often overlooked” and cautioned that they “should not be regarded lightly.”² In 2009, the National Football League adopted guidelines prohibiting players from returning to games or practices if they exhibited signs of concussion.³ That same year, the National Federation of State High School Associations required officials to remove players suspected of suffering a concussion.⁴ Now, from the NFL down to Pop Warner and other youth sports, teams, associations, schools and state legislatures across the country have adopted and mandate concussion management with return to play protocols.

History of the New Hampshire Concussion Management Law

In New Hampshire, the Head Injury Policies for Student Sports law first went into effect on August 17, 2012. In Session Law 234:1, the 2012 New Hampshire legislature issued the following legislative findings with the passage of the law:

The general court finds that:

- I. A concussion is caused by a blow or motion to the head or body that causes the brain to move rapidly inside the skull. The risk of catastrophic injuries or death are significant when a concussion or head injury is not properly evaluated and managed.
- II. Concussions are a type of mild brain injury that can disrupt the way the brain normally works. Concussions can result from a fall or from players colliding with each other, the ground, or obstacles. Concussions occur with or without loss of consciousness, but the vast majority occur without loss of consciousness. When managed properly, the majority of concussions resolve without direct medical intervention in 10-14 days.
- III. Continuing to play with a concussion or symptoms of head injury leaves the student-athlete especially vulnerable to greater injury and even death.

¹ May 2015: Written by NHMI Board member, Linda Johnson, Esquire, Co-chair of the Education Law Group of McLane, Graf, Raulerson & Middleton P.A., and provided as a courtesy by New Hampshire Musculoskeletal Institute (NHMI). You are welcome to reproduce and use this article and checklist. Linda can be reached at linda.johnson@mclane.com or (603)628-1267. NHMI’s largest program, the Safe Sports Network, is dedicated to youth sports safety. To learn more about NHMI, go to www.nhmi.net.

² From “The NCAA’s History With Concussions: A Timeline” by Travis Waldron posted on July 23, 2013 and updated on July 29, 2014 at <http://thinkprogress.org/sports/2013/07/23/233957ncaa-concussion-timeline>

³ *Id.*

⁴ *Id.*

The law makes clear that “education is the key to identification and appropriate management of all concussions.”⁵

In its original 2012 version, the law applied only to high school students, and merely “encouraged” school districts to develop guidelines and other pertinent information to inform and educate coaches, student-athletes and their parents or guardians about the risk of concussion and head injury after continuing to play following a concussion or head injury. It also required any official, athletic trainer or health care provider who suspects a student-athlete has sustained a concussion or head injury to remove the player from practice or the game immediately. And, it provided immunity to school districts, school officials and any school volunteer, pupil, parent, legal guardian or employee of a company under contract with a school with civil immunity for good faith conduct arising from or pertaining to the injury or death of an athlete provided the action or inaction was in compliance with the law and the local school board policies relative to the management of concussions and head injuries.

In 2013, the law was amended to apply to students in grades 4-12.⁶ And in 2014, it was further amended to now require, rather than just “encourage,” school districts to develop concussion management guidelines and to distribute a concussion and head injury information sheet to student-athletes on an annual basis. The 2014 revision also added a definition of “head injury” as: “injuries to the scalp, skull, or brain caused by trauma, and shall include a concussion which is the most common type of sports-related brain injury.”⁷

The full New Hampshire concussion management statute reads as follows:

RSA 200:49 Head Injury Policies for Student Sports.

Education is the key to identification and appropriate management of all concussions. The school board of each school district shall develop guidelines and other pertinent information and forms for student sports to inform and educate coaches, student-athletes, and student-athletes' parents or guardians of the nature and risk of concussion and head injury including continuing to play after concussion or head injury. On an annual basis, a school district or school shall distribute a concussion and head injury information sheet to all student-athletes. The Brain Injury Association of New Hampshire is available to educate and assist the public with implementing and/or updating concussion management protocols.

RSA 200:50 Removal of Student-Athlete.

I. A school employee coach, official, licensed athletic trainer, or health care provider who suspects that a student-athlete has sustained a concussion or head injury in a practice or game shall remove the student-athlete from play immediately.

II. A student-athlete who has been removed from play shall not return to play on the same day or until he or she is evaluated by a health care provider and receives medical clearance and written authorization from that health care provider to return to play. The student-athlete shall also present written permission from a parent or guardian to return to play.

⁵ See RSA 200:49.

⁶ See 2013, 19.1, House Bill 180.

⁷ See 2014, 42:1-3, House Bill 1113. Definition found at RSA 200:52(V).

III. No person who authorizes a student-athlete to return to play shall be liable for civil damages resulting from any act or omission in the rendering of such care, other than acts or omissions constituting gross negligence or willful or wanton misconduct.

RSA 200:51 School Districts; Limitation of Liability.

An employee of a school administrative unit, school, or chartered public school, or a school volunteer, pupil, parent, legal guardian, or employee of a company under contract to a school, school district, school administrative unit, or chartered public school, shall be immune from civil liability for good faith conduct arising from or pertaining to the injury or death of a student-athlete provided the action or inaction was in compliance with this subdivision and local school board policies relative to the management of concussions and head injuries. This limitation of liability shall extend to school-sponsored athletic activities. A school district or school may provide concussion guidelines to other organizations sponsoring athletic activities on school property, however the school district or school shall not be required to enforce compliance with such guidelines.

RSA 200:52 Definitions.

As used in this subdivision:

I. "Health care provider" means a person who is licensed, certified, or otherwise statutorily authorized by the state to provide medical treatment and is trained in the evaluation and management of concussions.

II. "School property" means school property as defined in RSA 193-D:1, V.⁸

III. "Student-athlete" means a student involved in any intramural sports program conducted outside the regular teaching day or competitive student sports program between schools in grades 4-12.

IV. "Student sports" means intramural sports programs conducted outside the regular teaching day for students in grades 4-12 or competitive athletic programs between schools for students in grades 4-12.

V. "Head injury" means injuries to the scalp, skull, or brain caused by trauma, and shall include a concussion which is the most common type of sports-related brain injury.

On the page that follows is **A Checklist for Compliance with the New Hampshire Concussion Management Law**. It includes the steps to be taken to comply with the New Hampshire concussion management law as well as a further list of recommended best practices on how to assess current policies and procedures, and develop an overall concussion management program.

⁸ Under RSA 193-D:1 (V), "school property" is defined as "all real property, physical plant and equipment used for school purposes, including but not limited to school playgrounds and buses, whether public or private."



A Checklist for Compliance with the New Hampshire Concussion Management Law⁹

- ___1. Develop a set of guidelines and other pertinent information and forms to educate coaches, students and parents/guardians about the nature and risk of concussion and head injury including continuing to play after a concussion or head injury. RSA 200:49
- ___2. On an annual basis, distribute a concussion and head injury information sheet to all student-athletes. RSA 200:49
- ___3. Inform and educate coaches, students, and parents/guardians about the nature and risk of concussion and head injury including continuing to play after a concussion or head injury. RSA 200:49 and 50
- ___4. Ensure that school coaches, officials, trainers and/or health care providers are appropriately trained about concussion protocols so that they will remove a student-athlete from play immediately if the student sustains a concussion or head injury. RSA 200:50 (I).
- ___5. Obtain medical clearance and written authorization from a health care provider for a student return to play as well as written permission from a parent or guardian authorizing return to play. RSA 200:50 (II).

Beyond the above specific requirements under the New Hampshire concussion management law, schools should assess their current policies and procedures, and develop an overall concussion management program to include:

- ___6. Have appropriate staff such as athletic trainers, team physicians, school nurses and concussion specialists to help evaluate and manage concussions and head injuries, and return to play.
- ___7. Annually inform students and their parents or guardians about concussion risks, symptoms, treatment and return to play protocols.
- ___8. Have policy and protocols as well as information about risks of injuries and of continuing to play following injuries available online at your school's website.
- ___9. Adopt initial baseline testing and stay abreast of tools to monitor and manage concussion and head injuries.
- ___10. Train coaches, athletic directors and trainers about concussions and concussion management.
- ___11. Teach athletes skills for minimizing concussion risk.
- ___12. Train athletes and team captains about recognizing the signs and symptoms of concussions, and require teammates and captains to report observations about teammates to coaches.
- ___13. Be sure to follow your own written policies, and follow proper return to play protocols following a concussion.
- ___14. Ensure athletes use appropriate equipment that protect against concussions.
- ___15. Stay abreast of developments in concussion management and best practices.
- ___16. Include in your written policies that the school's medical team/physician shall make the final determination about return to play.

⁹ Provided as a courtesy by NH Musculoskeletal Institute's Safe Sports Network.