Sports Volunteer Protection Statutes: Moving Toward Uniformity and Providing Volunteer Referees with Medical Training

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COMMENT

SPORTS VOLUNTEER PROTECTION STATUTES: MOVING TOWARD UNIFORMITY AND PROVIDING VOLUNTEER REFEREES WITH MEDICAL TRAINING*

I. INTRODUCTION

Imagine you are a volunteer referee\(^1\) for a youth baseball game in a rural area in the state in which you live. Suddenly, during the course of the game, the first baseman is struck in the chest by a line drive ball that was hit too hard for him to respond. He falls to the ground, but he does not move. You approach him and see that he is not responding to any stimulation. You notice he is not breathing, so you check for a pulse and find none. Cardiopulmonary resuscitation (CPR) is required, but neither you, nor any bystander, are trained in providing it. The nearest hospital is a half-hour away, and the fastest an ambulance can get to the diamond is fifteen minutes, but by then it may be too late to save the youth. You attempt to provide CPR as best as you know how, but by the time the ambulance arrives it is too late.

This is not unlike a scenario that may arise during an athletic contest, especially in rural areas where medical help is more than a couple of minutes away. Providing first aid or CPR immediately could mean the difference between life and death. Therefore, it is important for volunteer sports officials to be trained on how to handle such emergencies when they arise because they can occur at anytime to anyone, including participants and spectators.

Because volunteer referees are not considered employees, the standard of care differs from those that receive compensation for their duties. First, the standard of care for volunteer referees under both federal and state statutes will be discussed. Second, the duties of volunteer referees and how those duties relate to the provision of medical assistance will be discussed. Third, how

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1. The term “referee” and the term “official” will be used interchangeably in this comment.
volunteer referees trained in medical assistance should be treated by the courts (as medical professionals or as Good Samaritans) will be discussed. Finally, this comment will propose that it is important for volunteer officials to be trained to handle medical emergencies when they arise during the course of an athletic contest, as well as the type of training and equipment that should be provided to the officials.

II. VOLUNTEER REFEREES' STANDARD OF CARE

It would be naïve to believe, as a volunteer referee, that injuries will not occur while officiating an athletic contest. The fact is that injuries will occur and will have to be dealt with when they arise. When providing medical assistance to an injured athlete, one question that may arise deals with what standard of care should apply to volunteer referees. Throughout the United States, statutes have been enacted that limit the liability of volunteers and volunteer organizations in civil suits. Originally, two different standards emerged from these statutes: whether the referee's actions were reasonable or whether his or her actions were grossly negligent. However, in recent years, federal and state statutes have been enacted that have shifted the standard of care toward gross negligence.

A. Federal Volunteer Protection Act

The Federal Volunteer Protection Act (the Act) is one law that limits the liability of volunteers in the U.S. This statute dates back to the mid-1980s when Congress sought to respond to the decrease in volunteers as well as the lack of uniformity among state statutes. Although that particular legislation was not passed, it led to the creation of the law in existence today. The Act was passed by Congress in 1997 to help combat the fear of liability that volunteers


7. Id. at 324-25.

8. Id.
experienced during the late 1980s and early 1990s. Some of the reasons laid out by Congress for enacting this legislation were that "the willingness of volunteers to offer their services [was] deterred by the potential for liability actions against them" and that society as a whole was being affected by the decrease in volunteers.

As for the standard of care, the Act provides a volunteer for a nonprofit or governmental entity with immunity from suit as long as his or her actions are done within the scope of his or her responsibilities, he or she was certified by appropriate authorities in the state in which the harm occurred, and the harm did not result from the volunteer's grossly negligent conduct. While this statute is welcomed by volunteers, several problems arise in its application.

The first problem is that the Act does not preempt state laws that provide additional protection to volunteers. While this may seem logical, the inability to preempt state laws has led to a lack of uniformity among the many state statutes that protect volunteers. Uniformity is important in community recreation programs because it is believed that these programs "can only survive through the enactment of laws that value social utility as much as they value . . . economic efficiency." While the lack of uniformity is a small disadvantage, the Act does provide protection for volunteers in states whose laws have not been preempted.

The second problem with the Act is that immunity is provided only to the volunteers as individuals and not to the entity they provide services for. Although the Act intended to promote volunteerism among citizens, making an organization liable for its volunteers' actions may act as a deterrent in offering volunteer opportunities to the public. This may also lead to the closing of certain organizations if a substantial damages award is entered against them. This is especially true for nonprofit organizations that may have limited funds to give to a victorious claimant.

Finally, there is no protection provided to volunteers if the organization sues

11. § 14501(a).
12. § 14503(a)(1).
13. § 14503(a)(2).
14. § 14503(a)(3).
15. § 14502(a).
16. Benard, supra note 9, at 123.
the volunteer.\textsuperscript{18} This is most likely to occur when an injured plaintiff sues both the volunteer and the organization, then the organization sues the volunteer as well.\textsuperscript{19} Allowing this loophole in the Act is not only inconsistent with the goal of providing immunity to volunteers, it also may deter more citizens from volunteering, in direct contradiction of the primary goal of increasing volunteer participation.\textsuperscript{20}

Overall, the Act is an important piece of legislation because it protects volunteers from liability as long as they are acting within their duties and not acting grossly negligent. While the Act was aimed to cover all volunteers and not just those providing their services in a sports context, states have responded to the need to protect sports volunteers and have thus enacted sport-specific volunteer protection statutes.

\textbf{B. State Volunteer Protection Statutes}

In recent years, state statutes have emerged as protectors of volunteers in the sports context. While there tends to be a lack of uniformity among the states in the scope of liability and the standard of care, about half of the states provide a statute that addresses the particular liability of sports officials.\textsuperscript{21} Several state statutes will be discussed below, which will show just how much the statutes vary from state to state. While there are states that provide limited liability to volunteers in general, only those that protect sports officials in particular will be discussed in this comment.

The Illinois Sports Volunteer Immunity Act\textsuperscript{22} provides immunity to referees of nonprofit organizations as long as the referee's actions do not fall "substantially below" what is reasonably expected under the circumstances.\textsuperscript{23} This statute also provides immunity to referee assistants, as well as managers, coaches and instructors and their assistants.\textsuperscript{24} The standard, substantially below, is uncommon in these types of statutes, as most statutes apply a gross negligence standard.\textsuperscript{25} Because this standard is rare, the vagueness of the language makes it difficult to determine what constitutes conduct that falls substantially below reasonable conduct.\textsuperscript{26} However, New Mexico's volunteer protection statute

\textsuperscript{18} Biedzynski, \textit{supra} note 4, at 345.
\textsuperscript{19} Id.
\textsuperscript{20} See id.
\textsuperscript{21} See id. at 326-29.
\textsuperscript{22} Sports Volunteer Immunity Act, 745 ILL. COMP. STAT. ANN. 80/1 (West 2002).
\textsuperscript{23} 745 ILL. COMP. STAT. ANN. 80/1(a).
\textsuperscript{24} Id.
\textsuperscript{25} Biedzynski, \textit{supra} note 4, at 329 n.70.
\textsuperscript{26} Id. at 330 n.72.
seems to define substantially below as more than mere negligence but not quite gross negligence.\textsuperscript{27}

Pennsylvania also uses the same standard as Illinois and provides immunity to sports volunteers as long as their actions do not fall substantially below what is reasonably expected.\textsuperscript{28} However, this statute also extends immunity to the nonprofit association as well as its officers and employees.\textsuperscript{29} This is important in keeping volunteer organizations protected from acts of its volunteers, as long as the actions of the official are not substantially below that which is reasonably expected of him or her.

Some statutes provide immunity for acts taken by volunteer referees only if the participants are under a certain age. For example, New Mexico provides immunity to volunteer referees who act negligently when dealing with persons under the age of eighteen.\textsuperscript{30} However, this statute does not provide immunity if the referee’s actions fall substantially below those accepted in similar circumstances.\textsuperscript{31}

Similarly, Rhode Island’s volunteer sports official statute\textsuperscript{32} provides immunity for referees, assistants, and the nonprofit association (including its officers and employees) putting on a youth sports event as long as the acts do not rise to the level of “willful, wanton, or reckless disregard for the safety of the participants in the youth sports program.”\textsuperscript{33} Willful, wanton or reckless conduct is conduct that is still negligent “but which is so far from a proper state of mind that it is treated . . . as if it were so intended.”\textsuperscript{34} The statute here defines “youth sports” as “any [athletic or recreational] program . . . whose participants are nineteen (19) years of age or younger.”\textsuperscript{35} Similarly, Minnesota protects volunteer referees from liability, as long as their actions are not willful, wanton, or reckless but does not limit immunity to youth sports.\textsuperscript{36}

There are also statutes that simply provide immunity to referees from acts or omissions as long as their actions are not grossly negligent. Gross negligence is conduct that falls between “ordinary inadvertence or inattention” and “conscious

\textsuperscript{27} See N.M. STAT. ANN. § 41-12-1 (Michie Supp. 1996).
\textsuperscript{28} 42 PA. CONS. STAT. ANN. § 8332.1(a) (West 1998).
\textsuperscript{29} Id.
\textsuperscript{30} N.M. STAT. ANN. § 41-12-1.
\textsuperscript{31} § 41-12-1(A).
\textsuperscript{32} R.I. GEN. LAWS § 9-1-48(a) (1997).
\textsuperscript{33} Id.
\textsuperscript{34} W. PAGE KEETON ET AL., PROSSER AND KEETON ON THE LAW OF TORTS § 34, at 212-13 (5th ed. 1984).
\textsuperscript{35} R.I. GEN. LAWS § 9-1-48(d)(1).
\textsuperscript{36} MINN. STAT. ANN. § 604A.11 (West 2000).
indifference." Georgia provides immunity to referees and any employees of the nonprofit organization as long as the actions taken were not the result of gross negligence.

While the statutes laid out above are helpful in shielding volunteer referees from liability if their actions cause injury to a participant during an athletic contest, some states have taken their statutes a step further and provide immunity only if the referees have participated in a safety training program. One such state is Louisiana, which requires volunteer referees to participate in a "safety orientation and training program" in order for their liability to be limited. Although there are no specifics as to what the program must include, a course in child CPR is recommended. The safety program, whatever it may be, must be provided by the organization or league putting on the event. As with other states, there is no protection if the referee's acts are grossly negligent.

North Dakota provides another similar statute, which provides immunity as long as the official had participated in a safety training program established by the league and his or her actions are not grossly negligent. As with Louisiana's statute, this statute does not provide any guidance as to the type of training the referees should receive. This may be good because it allows each organization to choose what type of training to provide and allows it to take time and cost into consideration. However, because there are no guidelines, the organization may choose to provide only minimal training and may not include any medical training, essentially defeating the purpose of the requirement.

The most comprehensive statute of this sort comes from New Jersey. While this statute is similar to the previous statutes in protecting referees as long as they are not grossly negligent and have participated in a safety training program, the state has provided minimum standards for the type of training that referees must go through in order to be protected under the statute. The state requires that the training program be at least three hours in length and be

37. KEETON, supra note 34, § 34, at 212.
41. Id.
42. § 9:2798(A).
44. See § 32-03-46.
46. § 2A:62A-6(c)(1)-(2).
47. N.J. ADMIN. CODE tit. 5, § 52-1.1(b) (2005).
designed to allow for a "safely officiated, competitive experience" for the participating athletes. To ensure this, the officials must be trained in safety issues that are under their control as well as "[p]lans and procedures for medical emergencies." In an important decision from the New Jersey Superior Court, it was held that in order for immunity to be granted under this statute, actual participation in the program is required. The fact that the league did not provide its own training program was not an excuse that would allow the volunteer to be protected by the statute. This is important because it appears that the volunteer is responsible for making sure he or she is trained in a manner consistent with the regulatory language. However, it appears that most volunteer organizations provide this service themselves with little to no cost to volunteers.

While there are many advantages in providing immunity to volunteers, such as increasing the number of volunteers and lowering the fear of civil liability, there are also disadvantages to these statutes as well. The main disadvantage of these statutes is that it is inequitable to deny recovery to an injured participant. After all, tort law is premised on "the compensation of individuals . . . for losses which they have suffered within the scope of their legally recognized interests." However, it is also said that a primary function of tort law is merely to "determin[e] when compensation is to be required." While it appears inequitable not to allow recovery if a volunteer referee has not acted appropriately, the policy behind these statutes is ultimately aimed at the public good in promoting volunteerism.

Another disadvantage is that there is a lack of uniformity among the states as to the standard of care by which volunteer sports officials are measured. While some jurisdictions will hold volunteer referees liable for acts falling substantially below what is reasonable, most jurisdictions will protect their volunteers as long as they are not acting grossly negligent. Providing immunity for negligent acts is essential to athletic contests. As one scholar has stated, "[o]fficials need qualified immunity to function effectively . . . in their
roles as guardians of safe, competitive play. Without it, competitive athletics as an institution suffers." 56

While making states create a uniform standard in this area would be a monumental task, it would be beneficial to referees if they were held to the same standard as their counterparts throughout the country. Uniformity is also important in valuing social utility and economic efficiency. 57 In creating a uniform standard, a gross negligence standard should apply in order to protect referees from merely negligent acts, yet still allow injured parties to recover if the referee’s actions were so egregious as to warrant damages.

While there are some states that require safety training for volunteer sports officials, it should be a goal of volunteer organizations in those states to provide some level of medical training to its volunteers. In many instances, trained referees will be the first link in the chain of survival in providing medical treatment to an ill or injured participant. However, training volunteers in medical care raises the question as to whether a different standard of care should apply.

III. WHICH STANDARD OF CARE SHOULD APPLY TO MEDICALLY TRAINED VOLUNTEER OFFICIALS?

Although there has been little discussion of which standard of care applies to volunteer officials that have been trained in medical care, there appear to be two standards that can apply in addition to those addressed above. The first standard of care that may apply would be that of a medical professional. 58 The other standard that may apply is that of a Good Samaritan. Both are discussed in depth below.

A. Medical Professional Standard of Care

There are several ways to apply liability for acts or omissions that bring about harm in the context of medical professionals. The first standard depends on the level of training that person has received. 59 For instance, a person trained to provide “basic life support,” which includes first aid and CPR, will be held to

56. Biedzynski, supra note 2, at 420.
57. Benard, supra note 9, at 123.
58. The term “medical professional” will be used to describe persons employed by health care providers “to render emergency medical treatment to persons in need of medical assistance.” Frank J. Wozniak, Annotation, Liability for Negligence of Ambulance Attendans, Emergency Medical Technicians, and the Like, Rendering Emergency Care Outside Hospital, 16 A.L.R.5th 605, § 2[a], at 616 (1993).
a standard of care that examines how a reasonable person trained in the same areas would have acted in the same or similar circumstances.\textsuperscript{60} This shows that a higher standard does not apply if one does not have the proper training. Although the term "medical professional" covers many individuals, such as licensed physicians, registered nurses, and emergency medical technicians, it appears these individuals are only held to this duty when providing medical assistance to people they are obligated to treat in a hospital setting (e.g., patients).\textsuperscript{61}

There appears to be a gray area in instances where medical treatment has been provided in a setting outside of a hospital.\textsuperscript{62} When care is provided outside of a hospital setting, which includes treatment provided while en route to a hospital, there are two main areas of law that can be invoked to establish liability.\textsuperscript{63} The first is general tort law, dealing primarily with negligence and the duty of reasonable care.\textsuperscript{64} However, this area of law will not be discussed in this comment because the volunteer immunity statutes protect against this type of suit. The other is statutory law, primarily focused on Good Samaritan statutes, which will normally apply in these situations.\textsuperscript{65}

\textbf{B. Good Samaritan Standard of Care}

Another way to approach liability of volunteer referees is to apply immunity under Good Samaritan statutes. In instances dealing with athletic participants or any other setting outside of a hospital, Good Samaritan statutes will apply to anyone providing medical assistance.\textsuperscript{66} The State of Wisconsin provides immunity from civil liability to "'[a]ny person who renders emergency care at the scene of any emergency or accident in good faith.'"\textsuperscript{67} This is intended to protect volunteer referees as well, as long as "'[t]he health care is rendered at the site of the event or contest'"\textsuperscript{68} and the person providing assistance does not
receive compensation other than for expenses. Colorado also provides the same immunity to members of volunteer rescue units as long as the person provides assistance in good faith at the scene of the emergency.

Other Good Samaritan statutes echo this language, with some expanding the immunity to other services provided. Both Oklahoma and Mississippi provide immunity to individuals using automated external defibrillators (AEDs). Both states require that the person administering aid via an AED be trained in the use of the device, as well as CPR, and that the actions be done in good faith, in order for immunity to attach. It appears that statutes providing immunity for use of AEDs would apply to referees. The importance of AED training for volunteer referees, as well as the placement of AEDs at the site of athletic contests, will be discussed further below.

Good Samaritan statutes appear to provide immunity to volunteer referees where there may be no state volunteer protection act, but the intent of the Good Samaritan statutes is to provide immunity to ordinary citizens (and, in some jurisdictions, medical professionals) who provide medical assistance to injured persons at the scene of an accident. Where a state provides a Good Samaritan statute as well as a sports volunteer protection statute, it is likely that both defenses may be available if a referee has a civil suit brought against him or her.

In light of the duty owed to injured persons by medical professionals or Good Samaritans, the duty owed by volunteer officials who are trained in medical assistance (whether required by statute or not) should be that of a reasonable person in like circumstances, rather than that of an equally trained individual. Louisiana's athletic volunteer protection statute states that "compliance with the [training] requirements . . . shall not be construed to create or impose . . . any additional liability or higher standard of care." This reasoning seems consistent with that laid out by the Federal Volunteer

69. § 895.48(1m)(b).
70. COLO. REV. STAT. ANN. § 13-21-108(1).
75. See Veilleux, supra note 66, § 2[a].
77. LA. REV. STAT. ANN. § 9:2798(B)(2). As noted earlier, Louisiana requires that all volunteer officials participate in a safety training program.
Protection Act because the purposes of these statutes are "to promote the interests of social service program beneficiaries and . . . to provide certain protections from liability abuses related to volunteers."\textsuperscript{78}

Volunteer officials trained in medical care are very different from medical professionals. Officials, in all likelihood, do not have to deal with emergency situations every day. Medical professionals, whether paid or volunteer, respond to emergencies more frequently, allowing them to better handle emergency situations when they arise. Therefore, the reasonable person standard is the best standard by which to judge medically trained volunteer officials and immunity should be provided as long as their actions are not grossly negligent. In applying this reasonable person standard, the duties owed to the participants must be examined.

IV. DUTIES OWED BY REFEREES TO ATHLETIC PARTICIPANTS

When applying the reasonable person standard to volunteer referees, one must look at the duties the referee owes the participants in an athletic contest to determine whether his or her actions were reasonable under the circumstances. While it has been said that an official's duty of care has been satisfied when all reasonable steps to minimize participant injury have been taken,\textsuperscript{79} other duties do exist. Some of these duties include providing adequate supervision, anticipating unsafe playing conditions, providing post-injury treatment, providing medical care generally, and providing prompt medical attention.

One duty referees owe to the athletes they are officiating is the duty to provide adequate supervision.\textsuperscript{80} In one case, a referee was held liable for injuries sustained by an athlete caused by another athlete using an illegal wrestling move that caused the other athlete to be rendered a quadriplegic.\textsuperscript{81} The injury occurred when the referee's attention was temporarily diverted when he attempted to prevent the wrestlers from falling off the mat.\textsuperscript{82} Although the diversion and subsequent illegal hold lasted only a few seconds, the court held that the referee was negligent in providing adequate supervision and was liable to the plaintiff for damages.\textsuperscript{83} This duty requires that the referee exercise reasonable care to prevent an injury from occurring, as well as a duty to stop a

\textsuperscript{78} 42 U.S.C. § 14501(b).
\textsuperscript{80} WALTER T. CHAMPION, JR., FUNDAMENTALS OF SPORTS LAW § 3:4, 85 (2d ed. 2004).
\textsuperscript{81} Carabba, 435 P.2d at 939.
\textsuperscript{82} Id.
\textsuperscript{83} Id. (stating witness accounts of the length of the illegal hold ranged from one to ten seconds).
contest if one athlete is in danger of being injured.\textsuperscript{84}

The duty to anticipate adverse weather and unsafe playing conditions is also required of referees.\textsuperscript{85} In a recent case, a rugby player and his father were struck by lightning after the volunteer referee ended the rugby match the son was participating in.\textsuperscript{86} Although the son sustained minor injuries, his father died from the lightning strike.\textsuperscript{87} The plaintiffs argued that the referee, among others, had a duty to “[s]afeguard the health, safety, and welfare of the players and spectators at its matches” as well as to end the match when lightning became present.\textsuperscript{88} The court dismissed the action against the referee because “[t]he inherently unpredictable nature of weather . . . make[s] it unreasonable to impose a duty . . . to protect [participants and] spectators from the type [of] injury that occurred here.”\textsuperscript{89}

Importantly, it has also been found that recreation supervisors, which may include referees, owe a duty to provide “reasonable post-injury treatment” to an injured participant.\textsuperscript{90} However, this requires the official to provide only treatment that he or she knows he or she can provide until the injured participant can be treated by a competent physician.\textsuperscript{91} This duty also arises when a person has control of a third party and, either voluntarily or by contract, “assumed a duty of reasonable care for the protection of the other.”\textsuperscript{92}

There is also a duty to provide medical care, although this does not specifically apply to referees.\textsuperscript{93} As one scholar has stated, this duty involves determining when treatment should be provided, what treatment should be provided, and who should provide this treatment.\textsuperscript{94} Included in this is the duty to provide treatment to the injured athlete “as soon as possible under the circumstances.”\textsuperscript{95} The Missouri Court of Appeals has laid out three elements that must be met for the person providing medical assistance to meet this duty: (1) the person conducting the event must appreciate the severity of the injury;

\textsuperscript{84} CHAMPION, supra note 80, § 3:4, at 86.
\textsuperscript{85} Id. at 87.
\textsuperscript{86} Patton v. United States Rugby Football, Union, Ltd., 851 A.2d 566, 568 (Md. 2004).
\textsuperscript{87} Id.
\textsuperscript{88} Id. at 569.
\textsuperscript{89} Id. at 570 (last alteration in original) (quoting Patton v. USA Rugby, 841 A.2d 339 (Md. 2004)).
\textsuperscript{91} Id.
\textsuperscript{92} RESTATEMENT (SECOND) OF TORTS § 314 cmt. a (1965).
\textsuperscript{93} CHAMPION, supra note 80, § 4:5, at 108.
\textsuperscript{94} Id.
\textsuperscript{95} Id.
(2) the person conducting the event must "have the skill to provide adequate medical treatment;" and (3) if treatment would have been provided, it would have prevented the harm. These elements are crucial in determining liability of the person who assists an injured participant. This duty does not require a referee to provide care but to transport the injured party to a place where medical care can be provided. However, providing immediate care may be essential to the party's health, supporting the claim that referees should be medically trained.

Inherent in the duty to provide medical care generally is the duty to provide prompt medical attention; however, case law has applied this duty only to coaches. In one instance, coaches were held liable for the death of an athlete from heat stroke when they did not summon medical assistance when the athlete began showing signs of a medical problem. Only after the coaches called the player's mother was a doctor called, but the doctor arrived over an hour and a half after the athlete began showing symptoms of severe heat stroke. As one doctor noted, time was of the essence in this case, and death would have been "more unlikely" if medical treatment had been sought when obvious symptoms, e.g., not being able to walk, occurred.

Another duty is to prevent injured participants from competing; but again, case law has applied this duty only to coaches. In one case, a coach was held liable for damages when a participant suffered a knee injury during wrestling practice, and subsequently, the coach made him wrestle another competitor. In this second match, the plaintiff's knee injury worsened. The coach was found liable because he should have reasonably foreseen that further injury was likely if the plaintiff continued to practice. Although coaches are different from referees, these duties may be extended to referees as well, especially if their actions cause injury to a participant.

Inherent in the volunteer statutes laid out earlier in this comment is the duty

96. Id. at 109.
97. Id. (citing Kersey v. Harbin, 531 S.W.2d 76, 81 (Mo. Ct. App. 1975)).
98. Id. at 108.
99. See McCaskey & Biedzynski, supra note 76, at 31.
101. Id. at 459.
102. Id. at 460.
103. McCaskey & Biedzynski, supra note 76, at 33.
104. Halper v. Vayo, 568 N.E.2d 914, 915-16 (Ill. App. Ct. 1991). The coach's liability was likely aided by the fact that the person he made the plaintiff wrestle subsequent to the injury was a "champion collegiate wrestler." Id. at 916.
105. Id.
106. Id. at 921.
of a volunteer referee to "act[] in good faith within the scope of his or her assigned duties." However, it does not seem clear whether a referee trained in medical care will be held liable if he or she is trained only in first aid and injures a participant while providing CPR, which was not a part of his or her training. This will likely be a question that will be left up to the courts to decide.

While the duties laid out are not inclusive of all the duties referees owe to participants in an athletic contest, these duties show the need for medically trained officials. Although there is no duty to provide referees with medical training, by placing the duty to provide medical care on referees, it is logical that having trained referees is important when providing this care. Having trained referees is especially important in settings where there are no coaches or other medically trained personnel on-site. That being said, it is important for a volunteer organization to provide medical training to its volunteers and, more importantly, its volunteer sports officials. However, with the large variety of training programs available and the limited resources of some volunteer organizations, selecting a program that will provide adequate training is important.

V. MEDICAL TRAINING SHOULD BE PROVIDED FOR ALL VOLUNTEER OFFICIALS

Having a referee trained in providing medical care is important when professional help may be many minutes away. Providing training for referees will hopefully lead to more confidence in handling medical emergencies, as well as lower the risk of further harm to the injured participant while waiting for professional assistance. Requiring volunteer officials to be trained in programs such as first aid, CPR, and AED will be beneficial to all involved, especially when a professional health care provider is located some distance away from the site of the contest. However, volunteer organizations must take into account the type of program that best fits their needs, as well as the cost of these programs.

There are a variety of different training programs that an organization can choose to implement for its safety and health training. One simple, cost-effective way to provide training is by providing safety training handbooks to the referees. However, since referees will be dealing with injuries hands-on, this may not be the best option. Such a program would not meet the requirements that New Jersey requires of its volunteer officials. A better

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107. GA. CODE ANN. § 51-1-20.1(b); See also N.D. CENT. CODE § 32-03-46; N.H. REV. STAT. ANN. § 508:17(1)(b) (Supp. 2004).
108. 14 Emp. Coordinator (West) § 17.74 (Feb. 2004).
option is to provide hands-on or on-the-job training because it is often the most effective type of program and it can be conducted in a risk-free, controlled environment. Hands-on training would better prepare the officials to handle emergencies when they arise during the course of an athletic contest.

Local chapters of the American Red Cross, as well as the American Heart Association, offer a wide variety of programs to train individuals in different aspects of medical care. In deciding what level of training a volunteer organization should provide for its volunteer officials, cost is going to be a determinative factor. However, the relatively low cost of training officials in providing medical care can be offset by the potential for a damages award if the official was not trained (at least in the states that currently require training). The cost of classes offered by various Red Cross chapters to train individuals in adult and child CPR and AED, along with first aid, is relatively inexpensive. This could become quite costly for some organizations with limited budgets, especially since most training is valid for only one year at a time, requiring additional fees to renew every year. Therefore, the best option for these organizations is to pay for one of their employees or members to become an instructor, who can then train the volunteers at no cost. Instructor training is much more affordable and allows for any number of volunteers to receive training without having to pay for each individual training class.

The importance of having an individual trained in medical care at the site of an athletic event can mean the difference between life and death. In dealing with life-threatening injuries, such as cardiac arrest, the American Heart Association estimates that if CPR can be provided within three to five minutes after collapse, the chance for long-term survival is greater than fifty percent. The essential purpose of CPR is to “buy time” for the individual because it keeps blood and oxygen flowing through the body’s vital organs until medical professionals arrive at the scene. Although the chance of young people

110. See 14 Emp. Coordinator § 17.74, supra note 108.
114. AM. RED CROSS LAKELAND CHAPTER, supra note 112.
training volunteer officials in both adult and child CPR is essential in providing participants with a greater chance of survival or recovery should a medical emergency arise during an athletic event.

One program offered by various Red Cross chapters is a class entitled Sports Safety Training. This program is geared to train coaches and referees in the basic skills of first aid with a particular emphasis on athletic injuries. This program also trains individuals in adult CPR and allows child CPR training as an add-on program. In addition to the training received, a handbook is available and acts as a reference guide in dealing with athletics-related injuries and on how to prevent and care for those types of injuries.

While these types of training programs may be costly, especially for some nonprofit organizations, it is important to have volunteer referees trained in these programs in order to provide medical care as soon as possible after the injury. The sooner an injured individual receives medical treatment, the better chance they have of recovery. With referees being on the field of play at all times during the game and in the vicinity between games and intermissions, they are typically going to be the first individual to arrive at the scene. With adequate training and the proper equipment, the referee will be enabled to give the injured athlete a greater chance of recovery.

VI. TYPES OF EQUIPMENT NECESSARY AT ATHLETIC CONTESTS

While training in medical care is helpful in providing assistance to injured participants, the proper equipment also needs to be provided in order to keep both the person providing assistance and the injured participant protected from harm. The two pieces of equipment that should be on site at an athletic contest are first aid kits and AEDs.

A. First Aid Kits

These kits are an important part of providing medical care in order to protect...
both the person providing care and the person receiving care. Volunteer organizations that are worried about the cost of a kit can make their own to help alleviate some costs from purchasing pre-packaged kits. The American Red Cross states that a first aid kit used for athletics should include the following: bandages and gauze pads, alcohol swabs, antibacterial spray, cold packs, a CPR breathing barrier, and disposable gloves, among other items.\textsuperscript{123} The Red Cross also provides its own sports first aid kits that have these and other items included.\textsuperscript{124} It is also suggested that two kits should be available at athletic contests in case there are multiple injuries.\textsuperscript{125} While these kits are used for minor emergencies, equipment should also be made available if life threatening injuries, such as cardiac arrest, occur.

\section*{B. Automated External Defibrillators}

As noted above, the sooner medical care can be provided, the greater the chance of recovery or survival for the injured participant.\textsuperscript{126} This is even more important when dealing with cardiac arrest, where not receiving medical assistance immediately could mean the difference between life and death.\textsuperscript{127} Although training for this is now part of standard CPR training,\textsuperscript{128} the cost of an AED unit can be quite expensive, preventing some organizations from providing a unit at every athletic contest they sponsor. However, increasing the chance of survival for athletes suffering cardiac arrest during a contest is important as a matter of policy, and there are various funding programs to alleviate some of the cost of the AED units.\textsuperscript{129} Also, as with the volunteer immunity statutes discussed earlier, many states offer immunity to individuals providing assistance by using an AED.

Although a majority of individuals suffering "ventricular fibrillation"  

\begin{thebibliography}{99}
\bibitem{123} For an exhaustive list of items that should be in a first aid kit, see AM. NAT'L RED CROSS \textit{AND U.S. OLYMPIC COMM., supra} note 121, at xxi-xxiii.
\bibitem{125} AM. NAT'L RED CROSS \textit{AND U.S. OLYMPIC COMM., supra} note 121, at xxi.
\bibitem{126} AM. HEART ASS'N, \textit{supra} note 115.
\bibitem{128} \textit{Id.}
\bibitem{129} NAT'L. CTR. FOR EARLY DEFIBRILLATION, \textit{FUNDING FOR YOUR AED PROGRAM}, http://www.early-defib.org/03_05_06.html (last visited Oct. 1, 2005). This website provides a long list of places from which to seek funding, as well as contact information for those organizations.
\end{thebibliography}
occur at the person’s home, it is estimated that twenty to twenty-five percent occur in public places where citizens may be able to provide assistance until professional help arrives. If an AED can be applied to an individual experiencing VF within one to two minutes of onset, survival rates are upwards of ninety percent. A recent study done in Seattle found that sports stadiums were one public place with a high incidence of cardiac arrest. With this being the case, implementation of a layperson AED training program, also known as PAD (Public Access to Defibrillation), is starting to become more commonplace in recreational sports settings.

However, the issue of cost arises when dealing with volunteer organizations and their ability to pay for training and the AED units themselves. With PAD programs raising survival rates from below five percent to near fifty percent, it is difficult to say that these programs are not successful. Congress recently passed legislation in order to provide funding for the implementation of these programs as well as to “help communities buy and place [AEDs] in public places where cardiac arrests are likely to occur.” While the training is important to providing medical care, the AED units themselves are costly, making it difficult for smaller nonprofit organizations to afford these units. In addition to federal funding, there are other funding sources that volunteer organizations can seek out to assist in funding PAD training and the purchase of AEDs.

Finally, many jurisdictions throughout the United States provide limited liability to volunteers, as well as nonprofit organizations, which provide medical care by using an AED. Several states provide immunity to the person rendering medical care by using an AED as long he or she is acting in good faith, without compensation, and his or her actions do not constitute gross negligence.

130. See AM. HEART ASS’N, STUDY SHOWS INCREASED SURVIVAL FOR CPR EMERGENCY RESPONSE PLANS THAT INCLUDE AEDS, Nov. 11, 2003, http://www.americanheart.org/presenter.jhtml?identifier=3016931 (defining ventricular fibrillation as “a too-rapid heart rhythm originating in the heart’s lower chambers” and is commonly referred to as cardiac arrest).

131. Id.


133. Connaughton & Spengler, supra note 74, at 53.

134. Id. at 54.


136. Id. (stating that the average cost of one AED unit is around $3000, but varies by the manufacturer; however, prices for these units are on the decline).

137. NAT’L CTR. FOR EARLY DEFIBRILLATION, supra note 129.

138. See, e.g., ALA. CODE § 6-5-332(e) (Supp. 2004); ARK. CODE ANN. § 17-95-605 (Michie 2002); DEL. CODE ANN. tit. 16, § 3005C(a) (2003); GA. CODE ANN. § 51-1-29.3(a)(1) (Supp. 2005);
There are also several states that provide immunity only if the person providing the AED treatment has received training in using a defibrillator. These statutes serve as an extra layer of protection for volunteer referees who have access to such equipment.

It is important to provide referees with the proper equipment so that when emergencies arise, they will be able to care for the harm as best as possible. This is especially true when dealing with victims of cardiac arrest because the sooner an AED can be applied, the better chance the individual has of surviving. The federal government has recognized the importance of providing AED treatment and has provided funding for the training in and purchasing of these units.

VII. CONCLUSION

Although there has been little legislation in this country requiring sports officials to be trained in providing medical care, hopefully, it is not far off. States have already begun to pass legislation requiring officials to undergo some type of safety training, and with the increasing importance of providing medical care as soon as possible, more states will hopefully follow.

When creating these statutes, states need to take into consideration the different needs of volunteer organizations as well as the standard of care that should be applied. States need to realize that volunteer organizations have different needs because of their size and should require medical training that is not too costly but will still provide the volunteers with the best chance of providing adequate care. Also, funding should be provided to supplement the cost of programs and equipment that is necessary for adequate medical care to be provided.

The National Association of Sports Officials argues that a standard of gross negligence should apply across the board in volunteer sports official statutes. The gross negligence standard appears to be the favored standard among jurisdictions and should be applied uniformly in order to uphold the social utility and economic efficiency of community recreation programs, as well as to help promote volunteerism and protect referees from merely negligent actions.

An ideal statute would protect both the referee and the volunteer organization for any acts as long as the actions were not grossly negligent. The statute should also provide immunity only if the referee has received some level of training.
of safety training. There should also be some flexibility in the statute to allow volunteer organizations to determine which type of training best fits their needs and allows them to take time and cost into consideration. However, a minimum level of training should be required to ensure that the volunteers are properly trained.

If more states implement statutes and regulations similar to New Jersey’s, a more uniform standard of care should begin to develop, a specific requirement for medical training should emerge, and maybe, a federal law providing protection to sports officials across the nation would be passed.

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