

Concussion Safety



APRIL 11, 2021

Sport Law & Strategy Group



Providing strategic insight to the Canadian sport community through professional services in these areas:

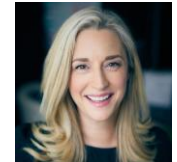
- Legal Solutions
- Communications, Marketing & Event Management
- Leadership Development, Human Resource Management & Integral Coaching®
- Governance, Compliance, Risk Management, & Financial Management
- Strategic Planning, Research, Engaging Athletes, & Member Surveys

Our Values + Our Team

We strive for excellence in all that we do and aim to provide exceptional value to our clients. We embrace the following values:

Professional Integrity:

- We act fairly, ethically and compassionately.
- We are reasonable and accessible.
- We are a trusted partner.



Continuous Learning

- We educate ourselves and our clients.
- We ask questions, challenge conventional thinking and push boundaries.
- We are driven to find simple solutions to complex problems.



Shared Passion

- We care about our clients and the achievement of their goals.



Agenda

- **Understanding Negligence**
- **Rowan's Law**
 - Background
- **Organization Responsibilities**
 - Participants must review concussion resources
 - Participants must sign concussion Code of Conduct
 - Organization must develop protocols (by July 1st, 2020)
- **Designated Person's Responsibilities**
 - Role
 - Remove from participation
- **Discussion**

NEGLIGENCE/ACCIDENTS

Negligence occurs only when:

- A Duty of Care is owed,
- The Standard of Care is breached,
- Harm or Loss occurs,
- The breach of the Standard causes or substantially contributes to the Harm or Loss.



DUTY OF CARE

To whom do you owe a duty of care?

“To anyone who you ought to know could be affected by your actions”

Coaches → Athletes

Club → Participants

Host Organizations → Participants

STANDARD OF CARE



- **Written/published standards**
 - Equipment standards
 - Organization policies & rules
 - Code of Conduct
 - Coaching/teaching/leadership manuals

- **Unwritten/unpublished standards**
 - New developments and Trends
 - Network
 - Pursue and Participate in Professional Development.

- **Case law**

- **Common sense**
 - Intuition
 - Knowledge
 - Experience
 - Gut

Myers v. Peel Country Board of Education (1981)

- Fifteen year old boy suffers broken neck while dismounting rings in a gymnastic class.
- Defendant liable on two bases:
 - Failure to provide adequate matting
 - Failure to supervise
- Standard of Care required of a coach is that of a careful or prudent parent.

What we learned from *Myers*

The potential for accidents will be reduced if the following four tests are met:

1. Activity is suitable to the participant's age and condition (mental and physical);
2. Participant is progressively trained to do activity properly;
3. Equipment is adequate and suitably arranged; and
4. The performance is properly supervised.

Hamstra v. BC Rugby Union (1989)

- Rendered quadriplegic when scrum collapsed.
- Sued coach for mismatching athletes playing the prop positions.
- Test for negligence is “whether [the coach] acted in accordance with the ordinary skill and care of a coach in similar circumstances.”
- Test requires the coach to:
 - Apply the laws of the game;
 - Act in accordance with the ordinary skill and care of a coach in similar circumstances.

Case Law Summary

- *Hamsta* establishes a lesser duty of care than the standard in *Myers*.
- Coaches have an obligation to act within those parameters established by these two cases.
- ** Coaches should be prepared to act within the standard of a reasonable and careful parent, the higher standard of care established by the Supreme Court of Canada**

STANDARD OF CARE



Highest possible level of care
- risk is eliminated

**Reasonable standard of care in the
circumstances** - risk is appropriately
managed

Failure to exercise any care
- risk is ignored

Rowan's Law (Concussion Safety)

- Rowan Stringer was a 17-year-old rugby player who died on May 12, 2013
- On May 8, 2013, she was tackled and showed symptoms of headache, exhaustion and bags under her eyes
- It was believed that she never told parents/coaches or any adults about the headaches
- Cause of death was multiple head injuries (returned to play after receiving undiagnosed concussion – and received second impact)

Aftermath

- **Coroner's inquest into her death concluded with 49 recommendations**
 - Enhanced concussion awareness and treatment
 - Head injury awareness and prevention
 - Removal from play
 - Return to play strategies
 - Mandatory concussion curriculum
 - Better tools for coaches and players to identify and treat concussions
- **Committee was created to advise on implementation**

Updates

- Updated **code of conduct** to include a Zero Tolerance Policy for dangerous behaviours and the code to be provided to participants and parents/guardian who must all sign the Code.
- **Mandatory collection of data** on all incidents to be provided to the Ministry of Health and Long-Term Care
- **Information of incidents to be shared** immediately with parents/guardians, other sport delivery partners with the consent of the athlete
- At least **one person present** at all games and practices, in addition to coaches, who has specific training in concussion identification and management
- All **coaches to complete annual training** in concussion identification and management
- Committee does not find sufficient evidence that support a recommendation for **base line testing** for children and adolescents.

Rowan's Law (Concussion Safety)

- Rowan's Law received Royal Assent on March 7, 2018
- Concussion awareness rules came into effect on July 1, 2019 applicable to all organized amateur sport – public, private, school-based and non-school based
 - Mandatory Education
 - Mandatory Immediate Removal
 - Return to Play Guidelines – Progressive
- **Sport organizations must now:**
 1. Have participants, parents and administrators sign a Concussion Code of Conduct
 2. Have participants, parents and administrators review concussion resources
 3. By July 1st, 2020: establish sport-specific protocols (Removal-from-Sport & Return-to-Sport)

Organization Responsibilities – Code

- **Concussion Code of Conduct must be signed by:**
 - All *participants* under 26
 - All *parents of participants* under 18 sign
 - All coaches, team trainers, officials, and managers who interact with individuals younger than 26
- **Concussion Code of Conduct (use government template):**
 - How to help prevent concussions
 - Health and safety precautions re: concussions
 - Agree to not hide concussion symptoms
 - Agree to take the time to recover

Organization Responsibilities – Resources

- **Government Resources (provided online):**
 - Age 10 and under
 - Age 11 to 14
 - Ages 15+
- **Resources must be reviewed by:**
 - All *participants* under 26 (once a year)
 - All *parents of participants* under 18
 - All coaches, team trainers, officials, and managers who interact with individuals younger than 26

Organization Responsibilities – Protocols

- **Must provide ‘Removal from Sport’ and ‘Return to Sport’ protocols by July 1st, 2021**
- **Can use government template or create a Concussion Policy**
- **Removal from Sport**
 - Must have ‘designated person’ at events
 - Designated person has responsibilities: remove athlete, emergency actions, inform parents of minors, record incidents
 - Designated person does not ‘diagnose’ concussion – just removes when concussion is suspected + administrative duties
- **Return to Sport**
 - Get diagnosis
 - Prepare graduated return-to-sport activities steps (case-by-case basis – and follow medical professional’s guidance)
 - Organization appoints designated person to record progress for returning to the sport (must follow medical advice + receive medical clearance)

Rowan's Law – Designated Person

- **Responsibilities**
 - Remove participants from competition
 - Zero tolerance
 - Suspected head injury = participant removed
 - Training is not required. Make a judgement call. You will have reviewed the concussion resources.
 - Not acting as a physician – not making a diagnosis
- **Must take role seriously**
 - Assume the worst
 - No competition is so important

Concussion Policy + Registration Form

- **Organizations should develop a Concussion Policy for participants that:**
 - Requires review of concussion awareness resources (and provides links)
 - Describes how to recognize a concussion (observable signs, symptoms, memory questions)
 - Includes a Code of Conduct (can use Ontario government template)
 - Describes 'Removal from Sport' protocol
 - Describes 'Return to Sport' protocol
- **Organizations should update their registration forms to include:**
 - Links to concussion awareness resources (and who must review which resources)
 - Link to Concussion Code of Conduct
 - Indicate their agreement that they have signed Code and reviewed resources (additional signature)

Rowan's Law –Responsibilities

- **Practical implementation may be challenging – but most of the material has already developed (e.g., templates)**
- **Swim Ontario example:**
 - “Clubs must collect signed confirmation from each swimmer and their parent acknowledging that Rowan’s Law Awareness Resources have been reviewed prior to registering swimmers. Clubs will be required to submit a declaration to Swim Ontario confirming that they have collected signed documents and have reviewed Rowan’s Law Concussion Awareness Resources. Registration CANNOT be processed until this has been done.”
 - “Clubs who use TeamUnify can add the Rowan’s Law concussion awareness resources to their registration process for 2019-20 season in the Waivers/Agreements section”
- **Consider an online form (but must keep records)**
- **Record keeping is vital !**

Pentathlon Canada Concussion Policies

- Developed to guide the management of participants who may have suspected concussion as a result of a PC activity.
- The Protocol and Policy are adapted from the Canadian Guideline on Concussion in Sport published by Parachute Canada
- The Protocol and Policy also recognizes the additional requirements per Rowan's law

Pentathlon Canada Concussion Protocol

- Intended to be used by all individuals who interact with participants in the context of a PC activity.
- Overview of Pre-Season Concussion Education
 - Definition of a Concussion
 - Signs and Symptoms
 - Steps to prevent concussions
 - Steps when a participant has suffered a concussion
 - Return to Sport

Pentathlon Canada Concussion Protocol

- Head Injury Recognition
 - Impact to the head face, neck or body
 - Neck pain
 - Double vision
 - Weakness or tingling
 - Headache
 - Seizure
 - Loss of Consciousness
 - Vomitting

Pentathlon Canada Concussion Protocol

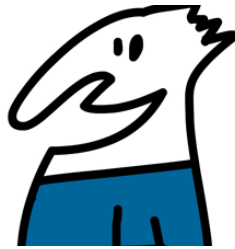
- Daily Activities
- Light aerobic activity
- Sport specific exercise
- Non-contact training drills
- Full contact practice
- Return to Sport

Pentathlon Canada : Concussion Protocols

- **Safe Sport Website Page** - where you can find concussion protocol Documents:
<https://www.pentathloncanada.ca/safe-sport/>
- **Pentathlon Canada National Concussion Protocol** - covers the recognition, medical diagnosis, and management of Pentathlon Canada participants who may sustain a suspected concussion during Pentathlon Canada Activities.
<https://www.pentathloncanada.ca/wp-content/uploads/2021/03/Pentathlon-Canada-National-Concussion-Protocol.pdf>
- **Pentathlon Canada Concussion Policy** <https://www.pentathloncanada.ca/wp-content/uploads/2021/03/Pentathlon-Canada-Concussion-Policy.pdf>
- **Policy Acknowledgment Form** - for Pentathlon Canada and Pentathlon Provincial/Territorial Organizations to ensure their athletes, coaches, officials and volunteers have reviewed their policies and protocols.



Any Questions or Comments?



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