

CHAPTER 121

AN ACT

SB 1547

Relating to concussions sustained by youth athletes; creating new provisions; amending ORS 336.485 and 417.875; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 336.485 is amended to read: 336.485. (1) As used in this section:

(a) "Coach" means a person who instructs or trains members [on] of a school athletic team, as identified by criteria established by the State Board of Education by rule.

[(b) "Health care professional" means a physician licensed under ORS 677.100 to 677.228, psychologist, physician assistant or nurse practitioner licensed or certified under the laws of this state.]

(b) "Qualified health care professional" means:

(A) A physician licensed pursuant to ORS 677.100 to 677.228; or

(B) A health care professional who meets the requirements described in section 3 of this 2018 Act to provide a medical release for a member of a school athletic team who is suspected of having a concussion.

(2)(a) Each school district shall ensure that coaches receive annual training to learn how to recognize the symptoms of a concussion and how to seek proper medical treatment for a person who is suspected of having a concussion.

(b) The board shall establish by rule:

(A) The requirements of the training described in paragraph (a) of this subsection, which shall be provided by using community resources to the extent practicable; and

(B) Timelines to ensure that, to the extent practicable, every coach receives the training described in paragraph (a) of this subsection before the beginning of the season for the school athletic team.

(3) Except as provided in subsection (4) of this section:

(a) A coach may not allow a member of a school athletic team to participate in any athletic event or training on the same day that the member:

(A) Exhibits signs, symptoms or behaviors consistent with a concussion following an observed or suspected blow to the head or body; or

(B) Has been diagnosed with a concussion.

(b) A coach may allow a member of a school athletic team who is prohibited from participating in an athletic event or training, as described in paragraph (a) of this subsection, to participate in an athletic event or training no sooner than the day after the member experienced a blow to the head or body and only after the member:

(A) No longer exhibits signs, symptoms or behaviors consistent with a concussion; and

(B) Receives a medical release [form] from a qualified health care professional.

(4) A coach may allow a member of a school athletic team to participate in any athletic event or training at any time after an athletic trainer registered by the Board of Athletic Trainers, or a physician licensed pursuant to ORS 677.100 to 677.228, determines that the member has not suffered a concussion. The athletic trainer or physician may, but is not required to, consult with a qualified health care professional in making the determination that the member of a school athletic team has not suffered a concussion.

SECTION 2. ORS 417.875 is amended to read:

417.875. (1) As used in this section:

(a) "Coach" means a person who volunteers for, or is paid to instruct or train members of, a nonschool athletic team.

[(b) "Health care professional" means a physician licensed under ORS 677.100 to 677.228, psychologist, physician assistant or nurse practitioner licensed or certified under the laws of this state.]

[(c)] (b) "League governing body" means a governing body that:

(A) Oversees an association of nonschool athletic teams that provide instruction or training for team members and that may compete with each other; and

(B) Is affiliated with, or otherwise sponsored or organized by, a nonprofit corporation established as provided by ORS chapter 65.

[(d)] (c) "Nonschool athletic team" means an athletic team that includes members who are under 18 years of age and that is not affiliated with a public school in this state.

(d) "Qualified health care professional" means:

(A) A physician licensed pursuant to ORS 677.100 to 677.228; or

(B) A health care professional who meets the requirements described in section 3 of this 2018 Act to provide a medical release for a member of a nonschool athletic team who is suspected of having a concussion.

(e) "Referee" means a person who volunteers or is paid to act as a referee, as an umpire or in a similar supervisory position for events involving nonschool athletic teams.

(f) "Referee governing body" means a governing body that:

(A) Trains and certifies individuals to serve as referees for nonschool athletic team events; and

(B) Is affiliated with, or otherwise sponsored or organized by, a nonprofit corporation established as provided by ORS chapter 65.

(2)(a) Each league governing body and each referee governing body shall ensure that the coaches and the referees, respectively, receive annual training to learn how to recognize the symptoms of a concussion and how to seek proper medical treatment for a person who is suspected of having a concussion.

(b) Each league governing body and each referee governing body shall adopt a policy that establishes:

(A) The requirements of the training described in paragraph (a) of this subsection; and

(B) Procedures that ensure that every coach and referee receives the training described in paragraph (a) of this subsection.

(3) Except as provided in subsection (4) of this section:

(a) A coach may not allow a member of a non-school athletic team to participate in any athletic event or training on the same day that the member:

(A) Exhibits signs, symptoms or behaviors consistent with a concussion following an observed or suspected blow to the head or body; or

(B) Has been diagnosed with a concussion.

(b) A coach may allow a member of a nonschool athletic team who is prohibited from participating in an athletic event or training, as described in paragraph (a) of this subsection, to participate in an athletic event or training no sooner than the day after the member experienced a blow to the head or body and only after the member:

(A) No longer exhibits signs, symptoms or behaviors consistent with a concussion; and

(B) Receives a medical release [*form*] from a **qualified** health care professional.

(4) A coach may allow a member of a nonschool athletic team to participate in any athletic event or training at any time after an athletic trainer registered by the Board of Athletic Trainers, or a **physician licensed pursuant to ORS 677.100 to 677.228**, determines that the member of a **nonschool athletic team** has not suffered a concussion. The athletic trainer or **physician** may, but is not required to, consult with a **qualified** health care professional in making the determination that the member of a **nonschool athletic team** has not suffered a concussion.

(5) The league governing body shall develop or use existing guidelines and other relevant materials, and shall make available those guidelines and materials, to inform and educate persons under 18 years of age desiring to be a member [*on*] of a nonschool athletic team, the parents and legal guardians of the persons and the coaches about the symptoms and warning signs of a concussion.

(6) For each year of participation, and prior to a person under 18 years of age participating as a member [*on*] of a nonschool athletic team, at least one parent or legal guardian of the person must acknowledge the receipt of the guidelines and materials described in subsection (5) of this section and the review of those guidelines and materials by:

(a) The parent or legal guardian of the person; and

(b) If the person is 12 years of age or older, the person.

(7) A league governing body may hold an informational meeting prior to the start of any season for each nonschool athletic team regarding the symptoms and warning signs of a concussion.

(8)(a) Any person who regularly serves as a coach or as a referee and who complies with the

provisions of this section is immune from civil or criminal liability related to a head injury unless the person acted or failed to act because of gross negligence or willful or wanton misconduct.

(b) Nothing in this section shall be construed to affect the civil or criminal liability related to a head injury of a person who does not regularly serve as a coach or a referee.

SECTION 3. (1) As used in this section, "health care professional" includes a chiropractic physician, a naturopathic physician, a psychologist, a physical therapist, an occupational therapist, a physician assistant or a nurse practitioner who is licensed, certified or registered under the laws of this state.

(2) A health care professional meets the requirements of a qualified health care professional for the purposes of ORS 336.485 and 417.875 if the health care professional has a certificate as described in subsection (3) of this section.

(3)(a) A health care professional is eligible to receive a certificate for the purposes of ORS 336.485 and 417.875 if the health care professional successfully completes an online program that:

(A) Is established and maintained by Oregon Health and Science University;

(B) Establishes for health care professionals a foundation of knowledge related to the assessment, diagnosis and management of sports-related concussions; and

(C) Informs health care professionals of:

(i) The requirements imposed by ORS 336.485 and 417.875 and any other related legal requirements; and

(ii) Limitations of the training provided through the online program.

(b) For the online program, the university:

(A) Shall establish the program in consultation with health care professionals and other stakeholders who are appropriately qualified for consultations;

(B) Shall ensure that the program is reviewed at least once every four years by health care professionals and other stakeholders who are appropriately qualified to make the review;

(C) Shall include minimum standards or clinical criteria that are evidence based and that incorporate best practices in relation to the assessment, diagnosis and management of sports-related concussions; and

(D) May charge participants in the program a reasonable fee.

(4) Certificates issued by Oregon Health and Science University under this section are valid for a term of four years. A health care professional may continue to meet the requirements of a qualified health care professional for the purposes of ORS 336.485 and 417.875 by renewing a certificate. The university shall prescribe the requirements for renewal, including requirements for additional training.

(5)(a) Except as provided by paragraph (b) of this subsection, no civil or criminal action, suit or proceeding may be commenced against Oregon Health and Science University, or any board member, officer or employee of the university, as a result of the death or injury of a member of a school athletic team or nonschool athletic team if:

(A) The death or injury is related to a head injury sustained during an athletic event or training; and

(B) The member received a medical release from a health care professional who held a certificate issued under this section.

(b) The civil and criminal immunities imposed by this subsection do not apply to an act or omission that:

(A) Amounts to gross negligence or willful or wanton misconduct; or

(B) Was performed by a board member, officer or employee of the university if the board member, officer or employee was providing health care services as a health care professional when the board member, officer or employee committed the act or omission.

SECTION 4. (1) Section 3 of this 2018 Act and the amendments to ORS 336.485 and 417.875 by sections 1 and 2 of this 2018 Act become operative on July 1, 2020.

(2) Oregon Health and Science University may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the university, on and after the operative date specified in subsection (1) of this section, to exercise all of the duties, functions and powers conferred on the university by section 3 of this 2018 Act.

(3) Notwithstanding the operative date specified in subsection (1) of this section, a psychologist, a physician assistant or a nurse practitioner licensed or certified under the laws of this state may provide a medical release for a person to participate in an athletic event or training as provided by ORS 336.485 or 417.875 without a certificate issued under section 3 of this 2018 Act if the medical release is provided prior to July 1, 2021.

SECTION 5. Not later than October 1, 2018, Oregon Health and Science University shall submit to the interim committees of the Legislative Assembly related to health care a report on the progress of the university in establishing the online program described in section 3 of this 2018 Act.

SECTION 6. Not later than December 1, 2021, Oregon Health and Science University shall submit to an interim committee of the Legislative Assembly related to health care a report that provides the number of health care professionals from each profession identified in section 3 (1) of this 2018 Act who successfully completed the online program described in section 3 (3) of this 2018 Act.

SECTION 7. This 2018 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2018 Act takes effect on its passage.

Approved by the Governor April 13, 2018
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