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# CRIMINAL LIABILITY IN MEDICAL MALPRACTICE AND ITS IMPACT ON SPORTS MEDICINE

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## ABSTRACT

*"Medicine is not only a science; it is also an art. It does not consist in compounding pills and plasters; it deals with the very processes of life, which must be understood before they may be guided." – Paracelsus*

Medical malpractice within the domain of sports medicine engenders considerable legal and ethical dilemmas, particularly when it culminates in criminal liability for healthcare practitioners. Given that athletes rely extensively on specialized medical experts to oversee their health and optimize performance, the repercussions of medical negligence or egregious misconduct can be catastrophic, potentially terminating careers or inflicting enduring damage. Criminal liability, which entails prosecuting healthcare providers for reckless or negligent actions that result in significant harm, is distinct from civil liability in that it emphasizes punishment and deterrence rather than compensation. This paper investigates the intricacies involved in discerning when medical malpractice in sports medicine transcends into criminal activity, emphasizing critical legal principles such as mens rea and actus reus. Furthermore, it analyzes the ramifications of criminal accountability on the practice of sports medicine, which may result in defensive medical strategies wherein physicians prioritize legal protection over patient welfare. The intense environment of sports, characterized by the imperatives of rapid recovery and optimal performance, exacerbates the potential for medical errors. Through the examination of case studies and legal frameworks, this paper deliberates the broader consequences of criminal liability for sports physicians, athletes, and the commercial interests of sports organizations, ultimately advocating for a judicious approach that ensures both accountability and elevated standards of care within the field.

**Keywords:** *Medical malpractice, Sports medicine, Criminal liability, Negligence, Athlete health, Defensive medicine, Legal accountability, Medical ethics, Sports physicians*

## **RESEARCH OBJECTIVE**

1. To scrutinize the legal framework that governs the domain of medical malpractice within the context of sports medicine.
2. To investigate the current legislative provisions that regulate medical malpractice, along with the benchmarks for establishing criminal culpability among healthcare professionals.
3. To assess the ramifications of criminal liability on both medical practitioners and athletes, particularly how the apprehension of legal prosecution affects the decision-making processes of sports physicians and the medical care rendered to athletes.
4. To undertake a comparative examination of medical malpractice statutes in India, the United Kingdom, and the United States of America, aiming to elucidate diverse methodologies pertaining to criminal liability and their respective efficacies.
5. To advocate for legal reforms aimed at enhancing the transparency and equity of medical malpractice regulations, thereby ensuring an equilibrium between accountability and the practicalities inherent in medical practice, while concurrently protecting healthcare practitioners.

## **SAMPLING METHOD**

The research predominantly employs purposive sampling, a non-random sampling methodology that emphasizes the selection of legal sources, cases, and statutes that are most pertinent to the objectives of the study. The study identifies jurisdictions (India, the UK, and the USA) based on their respective legal frameworks and historical landmark rulings concerning medical malpractice. Judicial precedents, statutory regulations, and peer-reviewed articles are examined to comprehend the interpretation of medical negligence within these jurisdictions. This approach guarantees that only legally consequential cases and materials are utilized to facilitate comparisons and derive conclusions.

## **TYPE OF RESEARCH**

This research employs a doctrinal legal research methodology, which fundamentally entails the

meticulous examination of legal doctrines, legislative enactments, judicial rulings, and case law. It is predicated on pre-existing legal texts rather than empirical evidence, thereby categorizing it as a qualitative research methodology. This investigation incorporates a comparative legal analysis, centering on medical malpractice legislation in India, the United Kingdom, and the United States to scrutinize their similarities, distinctions, and overall efficacy. Moreover, this inquiry amalgamates components of analytical legal research, wherein statutory provisions and judicial interpretations are rigorously appraised in the context of well-established legal principles. Through the analysis of seminal case law and legislative structures, this research seeks to evaluate the sufficiency of existing laws in addressing criminal liability in the domain of medical malpractice. Moreover, the investigation employs a prescriptive methodology by proposing legislative reforms aimed at improving the lucidity and equity within medical malpractice statutes. This approach guarantees that the inquiry transcends mere descriptive examination and also aids in the evolution of legal doctrine by pinpointing deficiencies in current legal structures and advocating for requisite amendments..

## **STATEMENT OF PROBLEM**

Medical malpractice within the domain of sports medicine engenders unique challenges, particularly with respect to criminal liability, attributable to the absence of unequivocal legal parameters that delineate ordinary negligence from gross negligence. This lack of clarity engenders heterogeneous judicial interpretations, thereby rendering medical practitioners susceptible to criminal prosecution even when they conform to established medical protocols. The inherently high-pressure environment of sports medicine further exacerbates this dilemma, as physicians are compelled to execute swift, situational decisions that may later be subject to legal scrutiny, thereby heightening the likelihood of defensive medicine—wherein practitioners prioritize the mitigation of liability over the provision of optimal patient care. Furthermore, the deficiency of standardized legal frameworks across various jurisdictions intensifies the ambiguity surrounding criminal liability in medical malpractice scenarios. This research endeavors to investigate the criteria by which criminal liability ought to be assessed in the context of sports medicine, evaluate the adequacy of existing legal standards in distinguishing between civil and criminal liability, and advocate for legal reforms that facilitate a just and equitable framework for holding medical professionals accountable.

## **SIGNIFICANCE**

Medical malpractice within the domain of sports medicine engenders unique challenges, particularly with respect to criminal liability, attributable to the absence of unequivocal legal parameters that delineate ordinary negligence from gross negligence. This lack of clarity engenders heterogeneous judicial interpretations, thereby rendering medical practitioners susceptible to criminal prosecution even when they conform to established medical protocols. The inherently high-pressure environment of sports medicine further exacerbates this dilemma, as physicians are compelled to execute swift, situational decisions that may later be subject to legal scrutiny, thereby heightening the likelihood of defensive medicine—wherein practitioners prioritize the mitigation of liability over the provision of optimal patient care. Furthermore, the deficiency of standardized legal frameworks across various jurisdictions intensifies the ambiguity surrounding criminal liability in medical malpractice scenarios. This research endeavors to investigate the criteria by which criminal liability ought to be assessed in the context of sports medicine, evaluate the adequacy of existing legal standards in distinguishing between civil and criminal liability, and advocate for legal reforms that facilitate a just and equitable framework for holding medical professionals accountable.

## **INTRODUCTION**

The confluence of legal principles and medical practice engenders distinctive obstacles, particularly within the context of medical malpractice in the domain of sports medicine. Sports physicians bear the significant responsibility of managing the health of athletes, whose professional trajectories are intrinsically linked to their physical condition, thereby elevating the stakes involved. While civil liability for malpractice is widely acknowledged, the implications of criminal liability introduce even more severe ramifications, including potential incarceration and revocation of medical licensure. Criminal allegations may emerge in instances of gross negligence or recklessness, which can pose challenges in differentiation within the dynamic and high-pressure environment of sports medicine. This scholarly article investigates the intricacies of criminal liability in the field of sports medicine, analyzing relevant legal frameworks, pertinent case law, and the multifaceted challenges faced by practitioners, while also reflecting on the manner in which the legal system reconciles the imperative of accountability with the practical realities inherent in sports healthcare.

Medical malpractice is defined as the failure of a healthcare practitioner to conform to the established standards of care within the medical field, resulting in harm to a patient. This phenomenon may occur through either acts of omission or commission, whereby the negligence exhibited by a healthcare professional culminates in injury or fatality. In the domain of sports medicine, this may manifest in numerous forms, such as the inadequate assessment of an athlete's preparedness for participation or the failure to deliver timely treatment for injuries incurred during competition.<sup>1</sup> The legal framework governing medical malpractice generally necessitates the establishment of a doctor-patient relationship, a breach of duty, the demonstration of causation, and proof of damages.<sup>2</sup>

The domain of sports medicine has attained significant recognition as an increasing number of individuals partake in athletic pursuits, culminating in a surge of sports-related injuries. As the rates of participation escalate, the likelihood of medical malpractice litigation directed at sports medical practitioners, including team physicians and athletic trainers, concurrently rises. These professionals encounter distinct challenges owing to the high-pressure context in which they function, wherein rapid decision-making is frequently necessitated. The significance of sports medicine transcends mere injury management; it encompasses preventive healthcare, augmentation of athletic performance, and comprehensive health oversight for athletes.<sup>3</sup>

Criminal liability is established when the actions of a healthcare provider manifest gross negligence or intentional misconduct, culminating in significant harm or mortality. In numerous legal jurisdictions, as exemplified by the UAE's Medical Liability Law, the initiation of criminal proceedings is permissible if a medical error is classified as "gross," a criterion that remains open to varying interpretations and legal evaluation.<sup>4</sup> Notable cases, such as that of Ian Paterson, underscore how severe violations of professional duty can culminate in criminal convictions for medical professionals who engage in superfluous procedures or neglect to procure informed consent from their patients. Within the realm of sports medicine, occurrences

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<sup>1</sup> McCarthy Wilson LLP, *Malpractice Liability of Sports Medical Care Providers*, <https://mcwilson.com/malpractice-liability-of-sports-medical-care-providers/>

<sup>2</sup> Gowling WLG, *Medical Negligence and Sports Law*, <https://www.g-spr.com/post/medical-negligence-and-sports-law>

<sup>3</sup> Margo KL, & Heringer P, *Medical Errors, Medical Negligence, and the Limits of Medicine*, 5(2) Primary Care Companion J Clin Psychiatry 70, 70 (2003), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2628504/>.

<sup>4</sup> Tees Law, *When Medical Negligence Becomes Criminal*, <https://www.teeslaw.com/insights/when-medical-negligence-becomes-criminal/>

where negligence precipitates grave injury or death may result in not only civil litigation but also criminal prosecution if the behavior is deemed sufficiently reckless.

## **LEGAL FRAMEWORK FOR MEDICAL MALPRACTICE**

The legal framework that delineates medical malpractice is crucial for comprehending the obligations and accountabilities of healthcare practitioners, especially within the realm of sports medicine. This segment examines the legal doctrines pertaining to medical negligence, pertinent legislation, benchmarks of care, judicial precedents, and their ramifications for practitioners.

Medical malpractice has the potential to result in both civil and criminal accountability. Within the realm of criminal jurisprudence, negligence must surpass a benchmark of gross negligence to justify the imposition of criminal charges. This legal tenet is observable across diverse judicial systems, including that of India, where it has been adjudicated by the courts that mere negligence does not suffice for criminal culpability; instead, it is imperative to demonstrate a substantial deviation from the established norms of care.

In the domain of sports medicine, the standard of care signifies the degree of skill and attentiveness that a prudent practitioner would exhibit in comparable situations. Sports medical professionals are anticipated to deliver care that is consistent with recognized guidelines and protocols tailored to the management of athletic health. A deficiency in adhering to these standards may lead to allegations of negligence should an athlete incur injury as a consequence of insufficient treatment or oversight.

The obligation of care assigned to sports medicine practitioners includes not merely the provision of treatment but also the implementation of preventive strategies and thorough evaluation of athletes' health status. Legal standards necessitate that sports medical practitioners comply with established protocols aimed at safeguarding athletes from harm and ascertaining their readiness for competitive participation. A violation of this obligation may result in civil liability through malpractice litigation and the possibility of criminal prosecution if gross negligence is demonstrated.

Judicial precedents play a crucial role in the construction of the legal framework governing medical malpractice, especially in delineating the circumstances under which criminal liability

may be deemed appropriate. In the case of *Suresh Gupta v. Govt. of NCT Delhi* (2004)<sup>5</sup> The judiciary determined that medical practitioners could solely incur charges under Section 304A of the Indian Penal Code, now section 106 of *Bhartiya Nyaya Sanhita* for acts of gross negligence, thereby differentiating such conduct from ordinary negligence and establishing a more stringent threshold for criminal accountability. Likewise, in the matter of *Jacob Mathew v. State of Punjab* (2005)<sup>6</sup>. The Supreme Court underscored that mere dissatisfaction regarding medical treatment does not substantiate the imposition of criminal charges; only substantial deficiencies in the standard of care can instigate liability. These judicial determinations serve to establish an equilibrium between safeguarding the rights of patients and protecting healthcare professionals from unfounded allegations.

The legal framework that governs medical malpractice within the Indian context is fundamentally anchored in constitutional stipulations that underscore the entitlement to health and medical care. Article 21<sup>7</sup>, which enshrines the Right to Life and Personal Liberty, has been subject to judicial interpretation that encompasses access to healthcare as a vital facet of a life imbued with dignity. Furthermore, the Directive Principles of State Policy, notably Articles 39(e)<sup>8</sup>, 41<sup>9</sup>, 42<sup>10</sup>, and 47<sup>11</sup>, elucidate the obligation of the State to safeguard public health, furnish medical assistance, and foster conditions essential for the preservation of human welfare. In addition to constitutional directives, various statutory provisions delineate the parameters of medical practice and address issues of medical negligence. The Consumer Protection Act<sup>12</sup>, extends its coverage to medical services, thereby empowering patients to pursue remedies for instances of medical negligence. The Indian Medical Council (Professional Conduct, Etiquette, and Ethics) Regulations<sup>13</sup>, delineate professional standards and ethical guidelines intended to govern medical practice. Similarly, the Clinical Establishments Act, 2010, imposes a requirement for the registration and regulation of healthcare providers to ensure the provision of quality healthcare services. Judicial precedents

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<sup>5</sup> *Dr. Suresh Gupta v. Govt. of N.C.T. of Delhi*, (2004) 6 S.C.C. 422 (India).

<sup>6</sup> *Jacob Mathew v. State of Punjab & Anr.*, 2005 SCC (Cri) 1369 (India).

<sup>7</sup> INDIA CONST. art. 12

<sup>8</sup> INDIA CONST. art. 39(e).

<sup>9</sup> INDIA CONST. art. 41

<sup>10</sup> INDIA CONST. art. 42

<sup>11</sup> INDIA CONST. art. 47

<sup>12</sup> The Consumer Protection Act, 1986

<sup>13</sup> The Indian Medical Council (Professional Conduct, Etiquette, and Ethics) Regulations, 2002

have further influenced the legal framework surrounding medical malpractice in India. In the landmark case of *Indian Medical Association v. V.P. Shantha*<sup>14</sup>, the Supreme Court adjudicated that medical services are encompassed within the domain of consumer law, rendering negligent practitioners liable for compensatory damages. In the case of *Dr. Suresh Gupta v. Govt. of NCT Delhi*<sup>15</sup>, the Court made a critical distinction between simple negligence and gross negligence in the realm of medical practice, emphasizing that only negligence of a substantial degree should incur criminal liability. Collectively, these constitutional provisions, legislative measures, and judicial interpretations delineate the legal parameters of medical malpractice in India.

## **MEDICAL MALPRACTICE IN SPORTS MEDICINE**

The domain of medical malpractice within the field of sports medicine introduces specific challenges and factors that set it apart from standard medical practice. The distinctive attributes of sports medicine are scrutinized, in conjunction with the diverse manifestations of malpractice that could potentially emerge. Furthermore, the differentiation between criminal liability and civil liability is investigated, underscoring the applicability of each within the realm of sports medicine.

### **How Sports Injuries and Treatment Differ from General Medical Practices?**

Sports medicine is an academic discipline that concentrates on the prevention, diagnosis, and therapeutic management of injuries associated with athletic endeavors. In contrast to general medical practice, which encompasses a broad spectrum of health issues, sports medicine is distinctly specialized and frequently pertains to acute injuries that arise from physical exertion, including but not limited to sprains, fractures, and concussions. Treatment protocols within the realm of sports medicine typically prioritize expedited recovery and reintegration into physical activity, employing methodologies such as the RICE (Rest, Ice, Compression, Elevation) approach for immediate intervention. Furthermore, sports physicians are obliged to take into account variables such as an athlete's performance aspirations and the specific physical exigencies of their respective sport when formulating treatment regimens.

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<sup>14</sup> *Indian Medical Association v. V.P. Shantha* 1995 SCC (6) 651

<sup>15</sup> *Dr. Suresh Gupta v. Govt. of NCT Delhi* 2004 (6) SCC 422



## Types of Malpractices in Sports Medicine<sup>16</sup>

### 1. Misdiagnosis of Injuries

Misdiagnosis constitutes a significant concern within the realm of sports medicine. Athletes may exhibit symptoms that closely resemble those of alternative conditions or injuries, resulting in erroneous treatment methodologies. For example, a concussion may be erroneously identified as simple fatigue, thereby postponing the provision of suitable care and potentially aggravating the athlete's condition.<sup>17</sup>

### 2. Improper Treatment

Improper treatment or non-compliance with established guidelines may give rise to inappropriate treatment. For instance, the omission of essential imaging studies for a suspected fracture can culminate in erroneous management of the injury, consequently resulting in long-term repercussions for the athlete.<sup>18</sup>

### 3. Doping-Related Issue

Doping-related malpractice encompasses the administration of, or the failure to properly manage, banned substances that pose a risk to an athlete's well-being or contravene sports governance protocols. Such actions may result in significant legal consequences for healthcare practitioners who partake in unethical conduct or neglect to inform athletes regarding the potential dangers linked to performance-enhancing substances.

## Difference between Criminal Liability and Civil Liability

In the domain of sports medicine, it is imperative to differentiate between criminal and civil liability when assessing instances of medical malpractice. The distinction between the both in

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<sup>16</sup> Neemtree Healthcare, *Sport Injuries and Get Treatment*, <https://www.neemtreehealthcare.com/sport-injuries-and-get-treatment.html>

<sup>17</sup> National Institute of Arthritis and Musculoskeletal and Skin Diseases, *Sports Injuries*, <https://www.niams.nih.gov/health-topics/sports-injuries>

<sup>18</sup> Neeraj Kumar, *Sports Injuries: Causes, Types, and Treatment*, Medanta (Apr. 10, 2023), <https://www.medanta.org/patient-education-blog/sports-injuries-causes-types-treatment>.

context of medical malpractice in sports medicine revolves around factors such as:

### 1. Nature of the Case

Criminal prosecutions involve the state bringing charges against an individual for actions deemed harmful to the society. In medical malpractice cases, this typically applies when there is gross negligence or intentional harm. For example, if a sports physician knowingly administers a banned substance to an athlete, this could lead to criminal charges for endangerment or negligence.<sup>19</sup> Whereas in civil lawsuit, it is initiated by the victim i.e. the athlete seeking compensation for damages resulting from negligence. Most medical malpractice cases fall under this category, where the athlete claims that a healthcare provider failed to meet the standard of care which leads to injury.<sup>20</sup>

### 2. Intent and Degree of Negligence

Proof of intent or gross negligence is required in criminal prosecution. This means that the healthcare provider's actions must show a conscious disregard for patient safety or an extreme lack of competence. For instance, if a doctor fails to diagnose a serious injury due to reckless behavior, they may face criminal changes.<sup>21</sup> Whereas in civil lawsuit focuses on ordinary negligence which does not require intent. The plaintiff must demonstrate that the healthcare provider breached their duty of care, resulting in harm. This is often evaluated based on whether the provider acted as a reasonably competent professional would under similar circumstances.<sup>22</sup>

### 3. Burden of proof

The burden of proof in criminal prosecution is "beyond a reasonable doubt" which is a

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<sup>19</sup> Bernstein, "Medical Malpractice: Civil Case vs. Criminal Case," *Bernstein Injury Law*, (Oct. 9, 2024), <https://bernsteininjurylaw.com/blog/medical-malpractice-civil-case-vs-criminal-case/>.

<sup>20</sup> Wilt, "Why Is Medical Malpractice a Civil Claim and Not a Criminal One?" *Wilt Injury Law*, (Sept. 13, 2022), <https://www.wiltinjurylaw.com/2022/09/13/why-is-medical-malpractice-a-civil-claim-and-not-a-criminal-one/>.

<sup>21</sup> *Legal Mechanisms and Procedures in Alleged Medical Negligence: A Review of Indian Laws and Judgments*, *National Medical Journal of India*, (2015), <https://nmji.in/legal-mechanisms-and-procedures-in-alleged-medical-negligence-a-review-of-indian-laws-and-judgments/>.

<sup>22</sup> Brown, "Why Is Medical Malpractice a Civil Case and Not a Criminal One?" *Brown Barron*, (May 2019), <https://www.brownbarron.com/blog/2019/may/why-is-medical-malpractice-a-civil-case-and-not-/>.

high standard reflecting the serious consequences involved such as imprisonment or fines. In civil lawsuits, the burden of proof is “preponderance of evidence” meaning that it is more likely than not that the negligence occurred. This lower standard makes it easier for plaintiffs to succeed in civil cases compared to criminal prosecutions.

#### 4. Remedies

In criminal prosecution, if found guilty, the healthcare provider may face penalties such as imprisonment, fines or loss of medical license. The focus is on punishing wrongful conduct and deterring future offenses. Whereas in civil lawsuits, the outcome typically involves monetary compensation for damages incurred by the athlete due to malpractice. This includes medical expenses, lost wages and pain and suffering. Civil cases may also result in disciplinary actions against the healthcare provider but do not involve criminal penalties.

#### 5. Legal Proceedings

Criminal prosecution is initiated by law enforcement agencies following an investigation into alleged wrongdoing. The state takes over the prosecution and the victim has limited control over proceedings. Whereas civil lawsuit is initiated by the victim who files a complaint against the healthcare provider in civil court. The victim has more control over their case and can negotiate settlements outside of courts.

### **Impact on Sports and Athletes**

The ramifications of medical malpractice within the realm of sports medicine are significant, influencing not only the well-being and professional trajectories of athletes but also the obligations of sports organizations. This examination delves into the health-related and career-oriented repercussions of medical malpractice, the legal recourse accessible to athletes, and the responsibilities of sports entities in guaranteeing the provision of high-quality medical care.

### **Effects of Medical Malpractices on Athletes' Health and Careers**

Medical malpractice can yield catastrophic effects for athletes, both physically and in their professional careers. In instances where healthcare providers neglect to deliver requisite care, athletes may experience misdiagnosed injuries or receive substandard treatment, culminating

in protracted health complications. For example, a misdiagnosed concussion can lead to significant neurological impairment if not managed appropriately, as evidenced in the case of *Pinson v. State of Tennessee*, wherein a player endured a chronic subdural hematoma attributable to insufficient medical assessment following a concussion.<sup>23</sup>

The ramifications on an athlete's professional trajectory can be of considerable magnitude. Injuries that are inadequately addressed may result in extended rehabilitation durations or irreversible impairments, consequently hindering an athlete's capacity to engage in competition at a professional standard. In certain cases, athletes have sought judicial recourse against sporting institutions for compensatory damages associated with diminished income and professional prospects attributable to negligent medical treatment.<sup>24</sup>

### **Available Remedies for Athletes in Malpractice Cases**

Athletes who experience injury as a result of medical malpractice are afforded a range of legal remedies. They may initiate civil litigation to obtain restitution for medical expenses, lost income, and suffering attributable to negligence. In certain circumstances, punitive damages may be granted if the malpractice is deemed particularly egregious. Furthermore, sports organizations may be held liable should they neglect to provide adequate medical care for athletes. These legal pathways furnish athletes with mechanisms to confront the ramifications of medical malpractice on their well-being and professional trajectories.<sup>25</sup>

### **Responsibility of Clubs, Teams and Organizations in Ensuring Medical Care Quality**

Sports institutions assume a pivotal function in the protection of athlete health by maintaining elevated standards of medical care. Entities such as sports clubs and teams bear the responsibility of employing competent medical professionals who comply with established protocols for the assessment and treatment of injuries. It is imperative that team physicians perform comprehensive pre-participation evaluations and adequately monitor any reported injuries thereafter.

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<sup>23</sup> Gowling WLG, *Medical Negligence and Sports Law*, <https://www.g-spr.com/post/medical-negligence-and-sports-law> (2015).

<sup>24</sup> McCarthy Wilson LLP, *Malpractice Liability of Sports Medical Care Providers*, <https://mcwilson.com/malpractice-liability-of-sports-medical-care-providers/> (2015).

<sup>25</sup> Dolden Wallace Folick LLP, *Sport Liability Law*, <https://dolden.com/sport-liability-law/>

## CRIMINAL LIABILITY IN MEDICAL MALPRACTICE

Criminal liability in the context of medical malpractice incorporates a multitude of elements, including criminal negligence, mens rea, and the various defenses accessible to medical professionals. A comprehensive understanding of these components is imperative for evaluating their ramifications within the domain of sports medicine.

### Criminal Negligence

Criminal negligence in the realm of medical malpractice transpires when a healthcare provider fails to adhere to the requisite standard of care, thereby inflicting harm upon the patient. This may encompass instances of misdiagnosis or the implementation of non-standard treatment modalities<sup>26</sup>. Jurisprudential discourse elucidates that negligence must reach a threshold of grossness to justify the imposition of criminal charges, as exemplified by cases such as Jacob Mathew, which established parameters for identifying a breach of duty<sup>27</sup>.

### Mens Rea in Medical Malpractice

The concept of mens rea, or the mental state of the healthcare practitioner, plays a crucial role in the establishment of criminal liability. Judicial bodies frequently necessitate evidence of intent or recklessness, thereby differentiating between mere negligence and criminal conduct. This differentiation is of paramount importance, as illustrated by the Indian Penal Code, wherein Section 304A<sup>28</sup> addresses fatalities resulting from rash or negligent actions, underscoring the necessity for a lucid demonstration of culpability.<sup>29</sup>

### Defenses for Medical Practitioners

Medical practitioners have the opportunity to invoke defenses such as compliance with accepted medical standards or the absence of intent to inflict harm. The Bolam test, which evaluates whether a practitioner acted in alignment with the conventions of their professional peers, is frequently employed in these contexts. Furthermore, legal protections are available

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<sup>26</sup> Beni, Satria. (2024). 2. Medical Criminal Law and Malpractice (Aspects Criminal Liability of Internal Doctors Health services).

<sup>27</sup> Aakash, Sethi., Rashi, Bilgaiyan. (2024). 3. Doctors in conflict with the criminal law: A records review of gross medical negligence cases under the Indian penal code. Sri Ramachandra Journal of Health Sciences

<sup>28</sup> Indian penal code, 1860, §304A.

<sup>29</sup> Margaret, Brazier., Emma, Cave., Rob, Heywood. (2023). 4. The criminal process and medical malpractice

for practitioners who can substantiate that their actions were within the parameters of reasonable medical practice, as delineated in various legal frameworks<sup>30</sup>.

While the examination of criminal liability in medical malpractice is of significant importance, it is equally crucial to contemplate the wider implications for healthcare practices, including the potential chilling effect on medical decision-making and patient care. Striking a balance between accountability and the necessity for effective medical practice continues to pose a formidable challenge within this field.

## **INTERNATIONAL PERSPECTIVES ON CRIMINAL LIABILITY IN SPORTS MEDICINE**

The framework of criminal liability for medical malpractice within the domain of sports medicine exhibits considerable variation across different jurisdictions, most notably in the United Kingdom, the United States, and several other territories. A comparative examination of medical malpractice legislation and underscores pertinent international case studies, are analyzed below.

### **Comparative Analysis of Medical Malpractice Laws**

Conducting a comparative examination of medical malpractice statutes within the realm of sports medicine is imperative for comprehending the varied legal frameworks that dictate the responsibilities of medical practitioners across disparate jurisdictions. This analytical comparison facilitates an assessment of optimal practices, highlights potential deficiencies within legal structures, and emphasizes the ramifications of judicial determinations on the safety and welfare of athletes.

The United Kingdom and the United States have been specifically selected for this investigation due to their robust legal systems and the existence of landmark cases that significantly influence the discourse surrounding medical liability in the context of sports. The UK adheres to a predominantly civil law paradigm, while the US incorporates both civil and criminal accountability, thereby presenting a more extensive array of legal interpretations. Furthermore, international case studies provide valuable perspectives on how diverse legal

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<sup>30</sup> Christos, Satlanis. (2023). 5. Criminal liability for causing death or personal injury for medical malpractice in Greek penal law.

traditions confront analogous issues, contributing to a comprehensive understanding of liability within the domain of sports medicine.

## 1. United Kingdom

In the United Kingdom, medical malpractice is predominantly regulated by civil law doctrines, necessitating the demonstration of negligence in accordance with the standard of care anticipated from a reasonably skilled practitioner. The legal case of *Hamed v. Tottenham Hotspur*<sup>31</sup> serves as a pertinent illustration, wherein the club's physician was deemed liable for insufficiently providing care, resulting in significant injury. The judicial system allocated liability between the club and the medical professional, thereby reflecting the collective responsibility inherent in the care of athletes.<sup>32</sup>

## 2. United States

Within the United States, claims of medical malpractice may originate under both civil and criminal legal frameworks. Civil litigation emphasizes negligence and mandates evidence that the healthcare provider failed to adhere to established care standards. Criminal culpability may be pursued in instances of egregious negligence or deliberate harm. For example, team physicians may confront criminal charges if they knowingly permit an injured athlete to continue participating without conducting a thorough evaluation. The case of *Pinson v. State of Tennessee*<sup>33</sup> exemplifies how negligence can culminate in grave repercussions for athletes when appropriate medical protocols are disregarded.<sup>34</sup>

## Global Case Studies

Numerous landmark legal cases highlight the disparate methodologies concerning criminal liability in the field of sports medicine:

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<sup>31</sup> *Hamed v. Tottenham Hotspur* [2015] EWHC 298 (QB)

<sup>32</sup> Medical Negligence and Sports Law, G-SPR (Oct. 11, 2024), <https://www.g-spr.com/post/medical-negligence-and-sports-law>.

<sup>33</sup> *Pinson v. State of Tennessee*, 02A01-9409-BC-00210 (Tenn.App. 12-12-1996)

<sup>34</sup> Malpractice Liability of Sports Medical Care Providers, McWilson (Oct. 11, 2024), <https://mcwilson.com/malpractice-liability-of-sports-medical-care-providers/>.

The case of Michael Watson Case (UK)<sup>35</sup> pertained to a professional boxer who incurred severe cranial injuries attributable to insufficient safety protocols enforced by the British Boxing Board of Control (BBBC). The judiciary determined that the BBBC held a duty of care to safeguard athlete welfare and was found negligent for its failure to institute requisite precautions.<sup>36</sup>

In the case of Sharrif Floyd Case (USA), Former NFL athlete Sharrif Floyd initiated a \$180 million lawsuit against his surgeon for purported malpractice during knee surgery that led to incapacitating damage. This case exemplifies the potential for high-stakes litigation within sports medicine and underscores the intricacies involved in determining liability.

French footballer Paul Pogba encountered a four-year suspension subsequent to testing positive for testosterone. This case provoked inquiries regarding the responsibilities of sports physicians in ensuring adherence to anti-doping regulations and their potential liability should negligence be substantiated.<sup>37</sup>

## CHALLENGES AND REFORMS

Criminal accountability in the realm of medical malpractice, particularly within the domain of sports medicine, engenders distinctive difficulties and necessitates the implementation of reforms aimed at augmenting legal clarity while safeguarding the interests of both patients and healthcare providers. The intricacies emerge from the specialized characteristics of injuries associated with sports and the legal obligations incumbent upon medical practitioners.

Challenges associated with criminal liability encompass heightened legal risks, as sports medicine clinicians encounter increased liability due to the distinctive requirements involved in the treatment of athletes, which includes conducting preparticipation examinations and on-field injury evaluations<sup>38</sup>. The presence of ambiguity within regulations exacerbates the issue, as existing statutes frequently lack precision concerning the criminal dimensions of

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<sup>35</sup>Michael Alexander Watson v British Boxing Board of Control Ltd & World Boxing Organisation Inc [2001] QB 1134, [2000] EWCA Civ 2116

<sup>36</sup> Siddhant Behki, Legal Liability of Sports Injury: Role of Government and Private Bodies in Rehabilitating the Injured, 9 *Int'l J. Novel Rsch. & Dev.* 417 (2024), <https://www.ijnrd.org>.

<sup>37</sup>Patricios et al., The Consensus Statement on Concussion in Sport: The 4th International Conference on Concussion in Sport Held in Zurich, November 2012, 47 *BRIT. J. SPORTS MED.* 250 (2013)

<sup>38</sup>Steven M. Kane & Richard A. White, Medical Malpractice and the Sports Medicine Clinician, 467 *CLINICAL ORTHOPAEDICS & REL. RES.* 339 (2009)



malpractice, resulting in inconsistent enforcement and potential injustices <sup>39</sup>. Factors such as misdiagnosis and deviation from established medical protocols further contribute to the complexities of criminal liability, thereby complicating the legal environment for practitioners in the field of sports medicine <sup>40</sup>.

Proposed legislative reforms advocate for the establishment of a more explicit legal framework, which would entail the formulation of precise regulations governing medical malpractice within the realm of sports medicine, thereby providing practitioners with clearer operational guidelines <sup>41</sup>. It is also recommended that enhanced risk management protocols be adopted, as the implementation of comprehensive risk management strategies can effectively mitigate legal risks faced by team physicians while simultaneously improving patient safety outcomes<sup>42</sup>. Finally, initiatives aimed at education and awareness can significantly empower both athletes and medical professionals by enhancing their understanding of respective rights and responsibilities, which may lead to a reduction in instances of malpractice. Although the present legal framework poses considerable obstacles, the resolution of these challenges through well-targeted reforms has the potential to foster a more efficient and equitable system for the adjudication of criminal liability in medical malpractice pertaining to sports medicine.

To address these challenges, it is essential that extensive legal reforms be implemented to cultivate a more equitable and just framework for assessing criminal liability in instances of medical malpractice. A fundamental reform concerns the establishment of a specialized legal framework relevant to sports medicine, which should include clear statutory provisions that explicitly define medical malpractice within this particular domain. This framework ought to establish a distinct benchmark for criminal negligence, considering the urgent nature of medical decision-making in sports-related situations. Moreover, judicial guidelines must be refined to distinguish between civil and criminal negligence, ensuring that courts adopt uniform legal standards. It is imperative that judicial precedents incorporate expert medical testimony,

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<sup>39</sup>Rizky M. et al., Juridical Analysis of Doctors' Responsibilities for Malpractice Action, 3 INT'L J.L. ENV'T & NAT. RES. 97 (2024).

<sup>40</sup> Satria Beni, Medical Criminal Law and Malpractice (Aspects Criminal Liability of Internal Doctors Health Services), 2 INT'L J. SOCIO-LEGAL STUD. 86 (2024).

<sup>41</sup> Apriyani Rini et al., Criminal Liability Arising from Medical Malpractice on Patients: A Review from the Perspective of Positive Law and Islamic Law, 18 KRTHA BHAYANGKARA: J. ANAL. FENOMENA HUKUM 1615 (2024).

<sup>42</sup> Elizabeth, M., Gallup. (1995). 2. Law and the Team Physician.

thereby preventing retrospective evaluations that unwarrantedly impose liability on sports physicians for decisions made in urgent circumstances.

An additional significant reform involves the creation of risk management protocols specifically designed for sports medicine. Mandatory compliance programs should be formulated to aid physicians in following best practices regarding injury evaluation, treatment, and rehabilitation. The establishment of standardized on-field medical protocols would further alleviate the risk of legal consequences for team physicians who are required to make rapid decisions in high-pressure environments. Furthermore, the initiation of compulsory legal education for sports physicians should be undertaken to enhance their understanding of legal responsibilities and potential liabilities. Continuous educational programs should also be established to ensure that practitioners remain knowledgeable about the dynamic landscape of judicial interpretations and regulatory changes. Additionally, strengthening the role of medical ethics committees can act as a crucial safeguard against unwarranted criminal prosecution. Independent review boards should be formed to assess allegations of medical negligence prior to the commencement of legal actions, thereby guaranteeing that cases are meticulously examined by medical professionals before facing criminal charges. These committees should also offer alternative dispute resolution mechanisms, prioritizing mediation and professional accountability over immediate legal action.

Ultimately, awareness programs directed at athletes and patients should be instituted to elucidate the parameters of medical liability, fostering realistic expectations regarding the medical risks associated with sports engagement. Encouraging enhanced communication among athletes, coaches, and medical practitioners will also facilitate informed consent in high-risk medical interventions, thereby reducing the likelihood of legal disputes arising from misunderstandings. By implementing these specific reforms, the legal framework can strike a balance between accountability and medical autonomy, ensuring equitable treatment for healthcare practitioners while concurrently enhancing patient safety within the domain of professional sports.

## **CONCLUSION**

In conclusion, the issue of criminal liability within the realm of sports medicine presents distinctive challenges attributable to the high-pressure environment and the specialized medical requirements of athletes. The demarcation between negligence and criminal conduct

is of paramount importance, with repercussions that can encompass civil litigation as well as criminal sanctions, including incarceration. Although legal frameworks differ, cases such as *Jacob Mathew v. State of Punjab* underscores the necessity for demonstrating gross negligence in order to substantiate criminal charges. There is a pressing need for reforms aimed at establishing more explicit guidelines, mitigating legal risks for healthcare professionals, and bolstering patient safety. The implementation of enhanced risk management strategies and educational programs will facilitate a balance between accountability and the exigencies of sports medicine, thereby safeguarding the health of athletes while avoiding undue penalties for practitioners.