



This document covers the below topics:

- A. Club committee Duty of Care to provide adequately trained first aid personnel to assist with the prevention and management of injury.
- B. The importance of Accredited Sport First Aiders and Sports Trainers.
- C. Sport Trainer and the Law

A. Clubs and Committee Officials Duty of Care to provide qualified medical volunteers for their sport/physical activity:

The **duty of care** is a general legal duty on all individuals, **sports/physical activity clubs** and National Governing Bodies to avoid carelessly causing of injury.

The definition of 'Duty of Care' is as follows: "You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour". As such there are two branches of law – that of Criminal and that of Civil.

- Criminal Law is concerned with offences against society generally and involves individuals being prosecuted for a breach of the Criminal Law. With regards to proof, the means of demonstrating that the offence has been committed - has to be "beyond reasonable doubt".
- Civil Law is concerned with the rights and duties of individuals (**and organisations**) towards each other. Civil cases comprise of an action brought by one person against another in order to seek recompense (normally financial) for some form of wrong-doing. The burden of proof in a case has to be decided on "the balance of probabilities". **Therefore Sports Clubs should be aware that claims are more likely from a civil case and cases could be brought against an organisation or individual on the basis of negligence.** What forms 'negligence' is often founded on previous case law.

Club Officers and members should make themselves aware of their duty of care requirements, the common law negligence and how it applies to sporting clubs and their committee.

In Summary, each of us owes a 'Duty of Care' to the participants registered with our club not to cause them injury by our negligent acts and omissions.

- In order to satisfy or 'discharge' that duty of care you must behave as a 'reasonable person' would but taking into account your specific skills, knowledge and experience. **For example, a committee member would be negligent if they placed a person in a position which required them to be in charge of the medical care of players when that person was not suitability qualified. An association would be negligent if they did not provide a safe playing environment for participants and had policies in place to ensure that equipment, first aid care and other requirements were met.**
- If you accept a position on a committee at your club you are likely to agree to carry out certain functions which may affect the safety of others, both inside and outside the club. When accepting responsibility you must fulfil those duties to the best of your ability without negligence. That is, you must not create or ignore a foreseeable risk of injury and

you must take reasonable steps to deal with any foreseeable risk of injury which exists or arises. For example: if you agreed to be the equipment officer you must carry out regular audits of the equipment to see that it is reasonably safe.

- As a Committee member you have accepted the responsibility of all registered players. You owe them a 'Duty of Care' to ensure that they are not exposed to a foreseeable risk of injury, as far as you reasonably can.
- In Australia, the law does not impose a duty of care upon any person to render medical assistance unless that person already owes a duty of care to the person requiring assistance. However if a committee places a person in a position of care and this person does not hold suitable qualifications to undertake the duties required to prevent further injury then the person providing the care and the committee member may be found negligent.

B ■ The Importance of Sports Medicine Australia Accredited Sport First Aid and Sports Trainers

A 'sports first aider and a sports trainer' is a member of an athlete's support staff who is committed to helping improve athletic performance and in making sport safer. Prevention of injury is a key concept reinforced throughout every role and duty a sports trainer undertakes.

Sports first aiders and sports trainer must be constantly aware of:

- how to prevent injuries from occurring
- how to reduce the severity of an injury once it has occurred
- how to prevent the recurrence of injuries.

Sports trainers differ greatly from first aiders.

Sports trainers play a vital role in prevention of injury. In order to be a practising sports trainer you must have a minimum of:

- a current First Aid Certificate (preferably a Sports First Aid Certificate)
- a current Cardiopulmonary Resuscitation (CPR) certificate
- a Level 1 Sports Trainer Certificate (SMA Sports Trainer course).

The sports trainer will be expected to provide advice to a range of people involved in sport and make crucial decisions that may affect but are not limited to:

- athlete health and wellbeing
- athlete recovery
- athlete understanding of basic injury education and development
- legal documentation and responsibility concerning injury and OHS
- assist sporting official and administration decision makers in athletes and club safety.
- first aid and emergency care of athletes.

C. Sports trainers and the law

There are three legal terms that all sports trainers must understand:

- 1 consent
 - (a) actual consent
 - (b) implied consent
- 2 duty of care
- 3 negligence.

1. Consent

Consent recognises that all athletes have the right to accept or refuse treatment. There are two types of consent:

- 1 Actual consent: the athlete (or parent/guardian of athlete) gives you permission to help them or render sports medicine assistance.
- 2 Implied consent: in an emergency situation, an unconscious athlete's consent is implicit for you to render assistance to preserve life.

2. Duty of care

There is no such clear duty for a first aider or person in a position of medical care, but once a person starts to act, that person becomes the care giver and should stay with the injured party until a more qualified health care professional arrives.

3. Negligence

In the rare event of a negligence action, brought before a court by a plaintiff that the damage was caused by a fully qualified sports trainer who holds current accreditation, negligence can only be established if *all* of the following are found:

- The sports trainer owed a duty of care to the injured athlete and the standard of care rendered by that duty was breached.
- Damage was caused by the breach of the duty of care or the care provided.
- the care provided caused further injury and this care was reasonably foreseeable.

Insurance

It is prudent for sports trainers to obtain some degree of personal or professional insurance cover if they are working actively with athletes. Insurance does not waive your roles and responsibilities as a sports trainer, but can offer some degree of financial protection in a litigious situation. SMA Sports Trainer insurance is available to Sports Trainers who have achieved a minimum standard of competency and who have maintained their accreditation with SMA.

Restricted practices

Restricted practices are medical procedures or techniques whose use is restricted under statute law. These techniques can only be used by people who have authority under the law to do so and are generally restricted to state/territory registered health professionals. There is some variation between the states and territories as to what medical practices are restricted. Examples of restricted practices include surgical procedures, skin penetration, prescription and supply of medication, spinal manipulation/adjustments and the use of certain types of electro-medical equipment and modalities.

Practising any restricted practices as a sports trainer may result in legal action taken against you by an athlete or governing organisation. It may also result in voiding your accreditation with SMA.