

Chapter Summary: Guiding Ethical Principles

This document is a summary of the full chapter on Guiding Ethical Principles in the Report *Protecting and Promoting the Health of NFL Players: Legal and Ethical Analysis and Recommendations*. In the Report, we make recommendations for how a wide variety of stakeholders can better protect and promote player health. Although each stakeholder is unique in important ways and may be subject to more specific ethical principles, as we discuss more fully in the Report, we identified seven overarching ethical principles to guide our assessment of all stakeholder responsibilities and to structure the nature of our recommendations. Here, we provide an abbreviated discussion of these ethical principles. The full chapter includes the following sections: General Principles of Bioethics; Professional Ethics; Human Rights Norms; Principles of Corporate Social Responsibility; and, Generating Specific Ethical Principles to Promote NFL Player Health. More specifically, it explains where our Guiding Ethical Principles come from and their relationship to other sets of principles frequently used in bioethics. For more information on the Guiding Ethical Principles of the Report, including relevant citations, please see the full chapter.

* * *

The seven overarching ethical principles applicable to all stakeholders in the Report are as follows:

Respect: The NFL is undeniably a business, but it is a business that relies on individuals who are exposed to substantial risks. These are not passive, inanimate widgets, but persons with inherent dignity and interests, social relationships, and long-term goals that extend beyond their playing days. Thus, no matter the enjoyment of the fans, the revenue generated, or the glory to players themselves, no stakeholder may treat players “merely as a means” or as a commodity solely for promotion of their own ends.

Health Primacy: The fact that football is a physical game and that injuries are relatively common does not mean that player health is unimportant. Health is special because it is foundational to all other pursuits. For this reason, it ought to be accorded special moral weight as compared to other possible goods, and we should be particularly wary in cases where goods will accrue to others whose health is not at risk.

When players are expected or encouraged to sacrifice their health for the game, or even when they are simply not discouraged from doing so, they are potentially treated as mere means, which is ethically problematic. Players have a moral right to have their health at the very least protected, and often promoted. Thus, as a general rule, avoiding serious threats to player health should be given paramount importance in every dealing with every stakeholder. However, there may be instances when a player, acting with full information and with minimal bias or other impairment, may rationally determine for himself that other values are more important than his capability for health.

While health matters, and indeed is often at the top of any pyramid of human values, we do not maintain that players must, or even should, always choose health over all other goods; this is certainly not a demand we make of the general population. Thus, we recognize that Health Primacy must be balanced against the principle of Empowered Autonomy, as described below, and that in some instances Empowered Autonomy will trump. That said, all stakeholders bear an obligation to try to reduce these instances of trade-offs as much as possible, and to reject an institution that demands or expects that players sacrifice their health on a regular basis.

Empowered Autonomy: Serious risks to health in football must be minimized as a structural matter. Beyond that, though, players are ultimately the ones who are most able to make decisions and take steps to protect and promote their health. In order to effectively do so, however – like all patients – they need support and empowerment. They need trustworthy factual information presented in a readily understandable way, as well as decision-making tools that help them see not only short-term benefits and costs, but also longer term implications. They need to have unfettered access to competent doctors whose conflicts of interest are minimized, contract advisors (*i.e.*, agents), financial advisors, and others they trust. The goal is not merely to allow players to choose for themselves which capabilities and values to prioritize, but to promote *informed* and *authentic* choice. Such choice also requires that players have access to good options and alternatives – *e.g.*, unconflicted and qualified medical advisors, educational opportunities and assistance with post-play career transitions, and the like – with the freedom to select among them without undue pressure from others.

Although perhaps not a perfect resolution of the various background pressures players may face, it is essential to take steps to at least ensure that player choice regarding matters related to their health will be free from misinformation, lack of understanding, bias, and avoidable negative influences. Other stakeholders have a responsibility to help achieve these criteria whenever possible. Where they are lacking, however, as in situations of cognitive impairment or unresolved biases, the principle of Health Primacy reigns supreme.

Transparency: All parties should be transparent about their interests, goals, and potential conflicts as they relate to player health. Failure to do so disrespects players and may also result in player health being inappropriately subrogated to other interests. Thus, information relevant to player health must be shared with players immediately. This means medical information about individual players themselves and about risks to players in general, including new information that would be sufficiently credible to be taken seriously by experts, even if not fully validated. This also means information about relationships that could influence judgment and recommendations related to player health. Promoting transparency will allow players to make better decisions for themselves, and also promote trust in all those who play a role in their health.

Managing Conflicts of Interest: While it is helpful to explain to players where conflicts of interest exist, as it may allow them to be on guard to better protect their own interests, mere disclosure will not help players when sufficient alternatives are lacking. Instead, all stakeholders should take steps to minimize conflicts of interest, and when they cannot be eliminated, to appropriately manage them. Many conflicts of interest are structural – the way in which a system is set up may create challenges for even well-intentioned and ethical individuals to do the right thing. When structure is the problem, it is structure that must be changed. Among other things, this will often involve removing problematic incentives, altering conflicted relationships, creating separate and independent sources of advice, and auditing the behavior of those with incentives that diverge from protecting and promoting player health.

Collaboration and Engagement: Protecting and promoting the health of professional football players depends on many parties who should strive to act together whenever possible to advance that primary goal. Further, part of treating players as ends in themselves and not as mere means is to refrain from making decisions *about* them and instead to make decisions *with* them. Players should be engaged by stakeholders in all matters that influence their health.

Justice: Finally, all stakeholders have an obligation to ensure that players are not bearing an inappropriate share of risks and burdens compared to benefits reaped by other stakeholders. Stakeholders should also be aware of the ways in which changing rules, laws, or programs – for example, trading benefits to former players for benefits to current players – may have differential

effects on certain sub-categories of players, and be attuned to ways in which those disadvantages can be blunted or recompensed. The principle of Justice also demands awareness of implications beyond the NFL itself. The way in which player health is protected and promoted at the top echelons of the sport will influence policies, practices, and culture all the way down the line, influencing the health not only of future NFL players, but also the vastly larger pool of Americans who will play football and never make it to the NFL.

* * *

These principles, generated for the unique context of professional football, served to guide the proper scope and direction of the recommendations set forth for each stakeholder, and also as a litmus test for inclusion of various recommendations in this Report. In sum, the ethical principles that we advance in this Report reflect well-established principles applied to the unique context of the NFL. They may not prove exhaustive, and we anticipate several others will be generated through critical public reflection on the work herein, but they are the right starting point for further discussion. Ultimately, we can offer one simple meta-principle to guide all the relevant stakeholders: *in every scenario, ask what system and rules you would wish to be in place to protect and promote health if you or your son were an NFL player.*