



Protecting and Promoting the
Health of NFL Players:
Legal and Ethical Analysis and Recommendations

Chapter 5

Christopher R. Deubert
I. Glenn Cohen
Holly Fernandez Lynch

Petrie-Flom Center for Health Law Policy, Biotechnology,
and Bioethics at Harvard Law School

SUMMARY: **Neutral Doctors**



This document is a summary of the full chapter on neutral doctors in the Report *Protecting and Promoting the Health of NFL Players: Legal and Ethical Analysis and Recommendations*. The full chapter includes the following sections: (A) Background; (B) Current Legal Obligations; (C) Current Ethical Codes; (D) Current Practices; (E) Enforcement of Legal and Ethical Obligations; and, (F) Recommendations. Here, we provide our Recommendations, with necessary background information. For more information and analysis of the role and responsibilities of neutral doctors, including relevant citations, please see the full chapter.

In the NFL, what the CBA describes as a “neutral” doctor, is sometimes used when there are conflicting opinions or interests. Neutral doctors – particularly when providing care – can be an important component of a player’s healthcare.

The 2011 CBA demarcates three situations where neutral doctors are required: (1) as the on-field emergency physician during games; (2) to perform examinations and provide opinions as part of the Injury Grievance process; and, (3) to investigate allegations on inadequate medical care by a club as part of the Joint Committee on Player Safety and Welfare.

In addition to these CBA provisions requiring a neutral doctor, the NFL and NFLPA have agreed on protocols regarding the diagnosis and management of concussions (“Concussion Protocol”). The Concussion Protocol requires an “Unaffiliated Neurotrauma Consultant” to be assigned to each club for each game. The Unaffiliated Neurotrauma Consultant is present on the sideline during the game and “shall be (i) focused on identifying symptoms of concussion and mechanisms of injury that warrant concussion

evaluation, (ii) working in consultation with the Head Team Physician or designated [Traumatic Brain Injury] TBI team physicians to implement the club’s concussion evaluation and management protocol (including the Sideline Concussion Assessment Exam) during the games, and (iii) present to observe (and collaborate when appropriate with the Team Physician) the Sideline Concussion Assessment Exams performed by club medical staff.”

Despite the important role of the Unaffiliated Neurotrauma Consultant, “[t]he responsibility for the diagnosis of concussion and the decision to return a player to a game remains exclusively within the professional judgment of the Head Team Physician or the Team physician assigned to managing TBI.” In Chapter 2: Club Doctors, Recommendation 2:1-D, we recommend that this be changed and that if either the Unaffiliated Neurotrauma Consultant or club doctor diagnoses a player with a concussion, the player cannot return to the game.

Importantly, the neutral doctors’ responsibilities do not include the same type of structural conflicts that potentially hinder the care provided by club doctors.

Recommendations Concerning Neutral Doctors

Neutral doctors play a limited but important role in player health. Perhaps most importantly, the Unaffiliated Neurotrauma Consultants are crucial to the effective operation of the Concussion Protocol, a signature component of player health. There is no indication that neutral doctors have done anything other than perform the roles assigned to them by the CBA and Concussion Protocol. Consequently, we make no recommendations concerning neutral doctors. Indeed, as the prior chapters suggest, the neutrality of these doctors is a positive benefit to players, and we should look for additional opportunities to have neutral doctor input and involvement.