

An Investigation of Law and Legal Liability Content in Master Academic Programs in Sports Medicine and Exercise Science

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Introduction

Fitness facilities and their personnel have been found negligent for a variety of reasons. For example, they have failed to: 1) conduct appropriate preactivity screening, 2) administer informed consent correctly, 3) instruct participants on how exercise safely, 4) hire qualified staff, 5) provide adequate supervision, 6) maintain facility and exercise equipment, and 7) provide emergency care when needed (Herbert & Herbert, 1993).

In addition to case law addressing these issues, a study by McInnis, Hayakawa, and Balady (1997) indicated that many fitness facilities are not conducting preactivity screening, practicing emergency procedures, and hiring qualified staff. One reason perhaps, for this lack of implementing appropriate procedures into the

daily operations of a fitness facility, is that the management and staff do not have adequate knowledge about the law or how to apply it through risk management.

With litigation in the exercise science field increasing (Herbert, 1996), it is essential that students receive education in their academic programs about the law and risk management. Though attaining this knowledge is important for undergraduate students who will be entering the fitness field, it may be more important for graduate students working toward a Master's degree. Often these graduate students are preparing for advancement in the field such as middle and upper management positions. As managers, they will be ultimately responsible for implementing the risk management plan and educating/training their staff on the legal significance

and importance of carrying out the risk management plan. It would be helpful for those graduate students pursuing management positions in the fitness field to receive course work in the law and legal liability to prepare them for these responsibilities.

The purpose of this study was to determine to what extent Master degree academic programs in exercise science were including content in the law and legal liability. Additional related information and opinions were also obtained.

Methods

A 4-page survey instrument, entitled "Survey of Law/Legal Liability Content in Master Academic Programs in Sports Medicine and Exercise Science" was developed and pilot-tested during the summer of 1999. Minor revisions were made based on the pilot-test. IRB approval from the University of Nebraska at Omaha was obtained in September 1999. A cover letter, the survey instrument, and a return envelope were sent to department heads of all 153 U.S. academic institutions listed in ACSM's (American College of Sports Medicine) 1999 *Directory of Graduate Programs in Sports Medicine and Exercise Science* in October 1999.

The cover letter included a statement that if someone else from your graduate academic program is more qualified than yourself to complete the survey, to ask that person to complete it. It also ensured respondents that their responses would be kept confidential and that no coding or similar method would be used to track responses. However, respondents and non-respondents were tracked using a postcard that was mailed separately from the survey instrument. Non-respondents were sent a revised cover letter, another copy of the survey instrument, and a return envelope in November 1999.

The first page of the survey included the following question that categorized the respondents into three corresponding groups: Which of the following best describes how your graduate course work includes content in the law and legal liability? A) Through a graduate course completely devoted to this topic, B) This content is

included within an existing graduate course, C) This content is not included in any graduate course. Based in their response to this question, respondents were directed to one additional page of the survey to answer related questions. Data were analyzed by determining the frequencies and percentages for all questions.

Results

From the sample of 153, a total of 101 (66%) completed and returned the survey. Of the 101, 98 were usable for data analysis. Three were not usable—two respondents indicated that their academic program was research-focused and that this survey did not apply to them and one respondent did not complete the survey correctly. Below are the results from the question on the first page of the survey that categorized the respondents into the three corresponding groups:

Group A	Through a graduate course completely devoted to this topic	N=31 (32%)
Group B	This content is included within an existing graduate course	N=26 (26%)
Group C	This content is not included in any graduate course	N=41 (42%)

Table 1 contains the results for respondents in Group A (N=31) for questions related to their course completely devoted to law and legal liability content. Titles of the course are grouped by similarity with the most common being: Law in Sport, Sport Law, Sport & the Law or those beginning with "Legal issues in" or "Legal aspects of." Of the 31 academic programs represented in this group, 20 had 10-20 students complete this course per year, 22 offered this course once/year, and 29 offered it for 3 semester credit hours. This course was a required course for 21 of the 31 programs and most often required for students in Sport Management, Sport Administration, Athletic Administration or Administration specializations. Backgrounds (academic degrees, experience, and interest) varied among the professors who taught this course.

Table 1**Group A – Graduate Programs that Offer a Course Completely Devoted to Law/Legal Liability Content (N=31)**

	Frequency*	Percentage
1. What is the title of this course? (N=29)		
a) Law in Sport, Sport Law, Sport and the Law	8	28
b) Legal Issues in Sport, Legal Issues in Sport Law (or similar title)	8	28
c) Legal Aspects of PE & Athletics, Legal Aspects of Sport (or similar title)	7	24
d) PE, Athletics and the Law, Physical Activity and the Law	3	10
e) Risk Management in Sport, Risk Management for Health/Fitness Professionals	2	7
f) Primary Care Sports Medicine Fellowship	1	3
2. How many graduate students complete this course/year? (N=29)		
a) <10	3	10
b) 10-20	20	69
c) >20	6	21
3. How many semester credit hours do students receive in this course? (N=31)		
a) 3 hours	29	94
b) 6 hours	1	3
c) 2 hours	1	3
4. How often is the course offered? (N=31)		
a) >2 times /year	3	10
b) once/year	22	71
c) every other year	4	13
d) other	2	6
5. Which best describes this course? (N=31)		
a) Required	21	68
b) Elective	10	32
6. What specialization requires this course? (N=28)		
a) Sport Mgmt., Sport Administration, Athletic Administration, Administration	17	61
b) Adult Fitness, Ex. Science, Ex. Leadership, Ex. Science & Rehab., Ex. Phys.	4	14
c) Coaching	2	7
d) Teacher Education, Physical Education Teaching	2	7
e) Sports Medicine, Sport Science	2	7
f) Health & Fitness Management	1	4
Briefly describe the legal background of the professor who teaches this course. (N=29)		
a) Lawyer	7	24
b) PhD/EdD with coursework and/or dissertation in legal area	4	14
c) PhD/EdD with interest, experience, research in legal area	5	17
d) Doctorate/Master degree in Sports Management/Administration	5	17
e) PhD/EdD/Other	8	28

*Frequencies for each question do not always total 31 due to missing data.

More than half of the professors were a lawyer, a PhD/EdD with course work (and/or completed their dissertation) in the legal area, or a PhD/EdD with interest and/or research experience in the legal area. Of the 20 who responded to which text was used in the class, 9 indicated *Sport Law for Sport Managers* by Cotton and Wilde. Twenty-one of the respondents listed additional legal resources used in the class such as case studies, Lexis-Nexis, handouts/articles, guest speakers and library resources.

Results from Group B (N=26), respondents that included law and legal liability content within an existing course in their academic programs, are presented in Table 2. If more than one course included this content in their program, respondents in this group were directed to refer to the one course where this content was included more so than any other course. The title of this course contained the word "management" or "administration" in one-half of the programs. This course was a required course for 18 of the 26 programs and most often was required for Master specializations in exercise science, exercise physiology, or related area. Regarding the approximate number of contact hours of instruction covering law and legal liability content that students received in this course, 80 % of the respondents indicated 1-6 hours. When respondents were asked if they would like to offer an entire course in this area if resources were available, 54 % indicated "yes" or "maybe." The majority of the respondents (62%) indicated that they did not have a faculty member capable and willing to teach a course in this area.

Table 3 contains the results from Group C (N=41) or those respondents who indicated they did not include law/legal liability content in any graduate course. The most common reasons for not including this content in any graduate course were that there was no professor available to teach this content and no course was offered where this content would be applicable. Twenty-four of the respondents (59%) had no future plans to offer graduate course work in this area. When asked if resources were available would

you like to offer an entire course in this area, 10 (25 %) indicated yes, 14 (35%) indicated no, and 16 (40%) indicated maybe. When asked if you have a faculty member capable and willing to teach an entire course in this area, 29 (71%) responded no.

Tables 4-7 provide responses to questions that were similar for all three groups. Regarding how important this course is to your graduate program (Group A) and how important is it for graduate students to have background in the law/legal liability (Groups B and C), 70% of the respondents in Group A indicated "very important" whereas 64% of the respondents in Group C indicated "somewhat important" or "not important." See Table 4. Results in Table 5 address distant education. Currently, none of the respondents in Group A are offering their course via distant education, but 7 are considering it. When asked how do undergraduate students in their programs receive content in the law/legal liability, 58 (62%) indicated that this content is included within an existing course. See Table 6. Lastly, Table 7 provides the results when all respondents were asked if there was a need for a textbook that specifically addresses the needs of students pursuing careers as health/fitness professionals in worksite, community, private, and clinical settings? Of the 98 respondents, 43 (44%) indicated yes.

Discussion

Several limitations exist in this study. The response rate of 66%, though a high response rate for survey research, may still reflect bias in the results. Because survey research relies on self-reported data, it is difficult to validate the responses. Also, the participants of this study were limited to those department heads listed in ACSM's *Directory of Graduate Programs in Sports Medicine and Exercise Science* and therefore this study does not represent all U.S. graduate programs in exercise science or related areas such as exercise physiology, adult fitness, health and exercise science, and exercise physiology and health promotion.

Only 32% of the academic institutions repre-

Table 2

Group B – Graduate Programs that Include Law/Legal Liability Content Within an Existing Course (N=26)

	Frequency*	Percentage
1. What is the title of this course? (N=26)		
Fitness Program Mgmt., Admin. of Ex. & Sport, Mgmt. of Health Prom. Programs (or similar title)	13	50
b) Graded Ex. Testing & Prescription, Ex. Prescription & Leadership, Fitness Testing	4	15
c) Other	9	35
2. Which best describes this course? (N=26)		
a) Required	18	69
b) Elective	8	31
3. What specialization requires this course? (N= 15)		
a) Ex. Science, Ex. Phys., Ex. & Wellness, Health & Ex. Science (or similar title)	10	67
b) Sport Management, Sport/Exercise Psychology	4	27
c) Other	1	6
4. What are the approximate “contact hours of instruction” covering law/legal liability content in this course? (N=25)		
a) 1-3	12	48
b) 4-6	8	32
c) 7-10	3	12
d) >10	2	8
5. Is there a text used in this course? (N= 26)		
a) Yes	19	73
b) No	7	27
6. If yes, what is the title of the text? (N = 13)		
<i>ACSM's Guidelines for Ex. Testing & Prescription, Guidelines for Cardiac Rehab., Advanced Fitness Assessment</i>	4	31
b) <i>Organization in Sport, Health & Fitness Prog. Admin., Admin. of P.E. & Sports Programs</i>	4	31
c) <i>Health Fitness Management</i>	2	15
d) Other	3	23
7. If resources were available, would you like to offer an entire course in this area? (N=26)		
a) Yes	6	23
b) No	12	46
c) Maybe	8	31
8. Do you have a faculty member capable and willing to teach an entire course in this area? (N = 26)		
a) Yes	5	19
b) No	16	62
c) Don't Know	5	19

*Frequencies for each question do not always total 26 due to missing data.

sented in this study offer an entire course covering law and legal liability content and most of these (61%) require it for students in sport management or a related specialization. For students specializing in exercise science or related areas, only 14% of the programs required this course. These results are somewhat higher than what Cotton (1991) found when he investigated the current status of sport law courses. In his study, a sport law course was required in 37% of the institutions that had a sport management major whereas for other majors including exercise science, only 10% of the institutions required this course. Regarding who taught the sport law course, Cotton (1991) found that 23% of the institutions had a professor with a law degree and

26% of the institutions had a professor who had taken one or more law courses. In the present study, 24% of the institutions had a lawyer who taught this course and 14% had a professor with a PhD/EdD who had course work and/or dissertation experience in the legal area.

Most institutions represented in this study are providing little or no law/legal liability content in their Master degree programs in exercise science or related areas. Only four of the 98 institutions required an entire course in law and legal liability content. Eighty percent of the institutions that had a course containing some law and legal liability content provided six or less contact hours of instruction covering content in this area. With a typical 3-hour semester course including about

Table 3
Group C – Graduate Programs that Do Not Include Law/Legal Liability Content in Any Course (N=41)

	Frequency*	Percentage
1. Which of the following (check all that apply) describes why you do not include content in this area in your graduate programs? (N=56)		
No professor available to teach this course	21	37
b) No course is offered where this content would be applicable	17	30
c) It is not necessary	2	4
d) Other, please explain...(No time or limited time in courses/have elective, recommended course/topic has not come/new course, just developed/covered in undergrad vs grad program)	16	29
2. Which best describes your future plans to offer graduate course work in this area? (N=41)		
a) Offer an entire course	3	7
b) Include within an existing course	14	34
c) Continue to not include in any course	24	59
3. If resources were available, would you like to offer an entire course in this area? (N=40)		
a) Yes	10	25
b) No	14	35
c) Maybe	16	40
4. Do you have a faculty member capable and willing to teach an entire course in this area? (N=41)		
a) Yes	8	19
b) No	29	71
c) Don't Know	4	10

*Frequencies for question #3 do not total 41 due to missing data.

Table 4

**Importance of Law/Legal Liability Content in Graduate Programs,
Frequencies (Percentages)**

1) How important is this course to your graduate program? (Group A)

2) How important is it for graduate students to have background in this area? (Group B & C)

<u>Group</u>	<u>Very Important</u>	<u>Important</u>	<u>Important</u>	<u>Somewhat Important</u>	<u>Total</u>
A	19 (70%)	5 (19%)	3 (11%)	0 (0%)	27
B	10 (38%)	9 (35%)	7 (27%)	0 (0%)	26
C	3 (7%)	12 (29%)	20 (49%)	6 (15%)	<u>41</u>
					94

45 contact hours of instruction, the class time devoted to law and legal liability content in these courses is very small. More concerning than these results is that 42% of the institutions did not offer any law/legal liability content in any graduate course.

Additional data from this study may explain why many graduate programs in exercise science or related areas are not providing adequate course work in the law and legal liability. One reason is that institutions often do not have a faculty member who is capable and willing to teach a course in this area. However, when asked if resources were available, would you like to offer an entire course in this area, only a small per-

centage of respondents in Groups B and C indicated yes. It may be that the respondents in Groups B and C do not recognize the importance of providing students with education in this area. Only 38% and 7% of the respondents in Groups B and C, respectively, indicated that it was very important for graduated students to have background in this area whereas 70% of those in Group A indicated that their law/legal liability course was very important to their graduate program. To increase law and legal liability content in graduate exercise science programs or related programs, it may be necessary to educate department heads and other faculty in the field on the importance to include this content in their cur-

Table 5

Distant Education

1) Group A – Which best describes this course being available through distance education at your institution?

a) Currently Available	= 0
b) Considering It	= 7
c) No Plans To	= <u>24</u>
Total	31

2) Groups B & C – If an entire course in this area was available to your graduate students, would you be interested in offering it?

<u>Group</u>	<u>Yes</u>	<u>No</u>	<u>Maybe</u>
B	3	8	15
C	<u>3</u>	<u>12</u>	<u>26</u>
Totals	6 (9%)	20 (30%)	41 (61%)

Table 6

How Undergraduate Students Receive Law/Legal Liability Content, Frequencies (Percentages)

If you offer an undergraduate degree(s), how do these students receive content in this area?

	<u>Group A</u>	<u>Group B</u>	<u>Group C</u>	<u>Total</u>
1) Through an entire course covering this content	9	2	4	15 (16%)
2) Included within existing course	17	20	21	58 (62%)
3) Not included in any course	5	2	14	<u>21</u> (22%)
				94

riculum as well as to prepare more professors who can teach courses in this area.

Conclusion

The results of this study show that most graduate academic programs in exercise science or related areas are not providing their students with adequate education and training in the law and legal liability. One way to help minimize the increase of litigation in the exercise science field is to educate those who are preparing for jobs in the field. These students should obtain adequate knowledge of the law and develop risk management skills in their academic preparation. They should understand why this knowledge and these skills are important and are necessary to their success in the field. However, if department heads and faculty of graduate programs in exercise science (or related area) do not perceive this content to be important, this message directly or indirectly will transfer to their students. The results of this study demonstrate a need to

increase law/legal liability content in graduate exercise science academic programs, educate department heads and others in the field of exercise science about the importance of covering this content adequately in their curriculum, and prepare more professors to teach courses in this area.

References

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Table 7

Need for Textbook for Wellness/Fitness Students

Is there a need for a textbook in this area that specifically addresses the needs of students pursuing careers as health/fitness professionals in worksite, community, private, or clinical settings?

<u>Group</u>	<u>Yes</u>	<u>No</u>	<u>Not Sure</u>	<u>Total</u>
A	17	3	11	31
B	11	4	11	26
C	<u>15</u>	<u>6</u>	<u>20</u>	<u>41</u>
Totals	43 (44%)	13 (13%)	42 (43%)	98