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HOUSE BILL 180

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

Bill McCamley

AN ACT

RELATING TO STUDENT ATHLETE BRAIN INJURIES; PROVIDING FOR
ADMINISTRATIVE APPEALS FROM CERTAIN NONELIGIBILITY
DETERMINATIONS BASED ON BRAIN INJURY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 22-13-31 NMSA 1978 (being Laws 2010,
Chapter 96, Section 1) is amended to read:

"22-13-31. BRAIN INJURY--PROTOCOLS TO BE USED BY COACHES
FOR BRAIN INJURIES RECEIVED BY STUDENTS IN SCHOOL ATHLETIC
ACTIVITIES--APPEALS--TRAINING OF COACHES--INFORMATION TO BE
PROVIDED TO COACHES, STUDENT ATHLETES AND STUDENT ATHLETES'
PARENTS OR GUARDIANS.--

A. A coach shall not allow a student athlete to
participate in a school athletic activity on the same day that
the student athlete:

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1 (1) exhibits signs, symptoms or behaviors
2 consistent with a brain injury after a coach, a school official
3 or a student athlete reports, observes or suspects that a
4 student athlete exhibiting these signs, symptoms or behaviors
5 has sustained a brain injury; or

6 (2) has been diagnosed with a brain injury.

7 B. The mandatory same-day prohibition required by
8 Subsection A of this section is final and not subject to
9 appeal, and no injunction, writ of mandamus or other legal or
10 equitable court process shall enjoin that prohibition.

11 [~~B.~~] C. A coach may allow a student athlete who has
12 been prohibited from participating in a school athletic
13 activity pursuant to Subsection A of this section to
14 participate in a school athletic activity no sooner than one
15 week after the student athlete has received a brain injury and
16 only after the student athlete:

17 (1) no longer exhibits any sign, symptom or
18 behavior consistent with a brain injury; and

19 (2) receives a medical release from a licensed
20 health care professional.

21 D. A student athlete aggrieved by the mandatory
22 prohibition in Subsection C of this section may, as an
23 exclusive remedy, appeal the underlying brain-injury
24 determination made pursuant to Subsection A of this section to
25 the director of the New Mexico activities association as

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1 prescribed by rules promulgated pursuant to Subsection E of
2 this section. In an appeal, the director is acting in the
3 service of the department in an official capacity. No fee
4 shall be charged for the appeal. The decision of the director
5 is final. No court has jurisdiction over a brain-injury
6 determination until the director has entered a decision. If
7 the director's decision is that no brain injury occurred or
8 that after one week from the date of the brain injury the
9 student athlete no longer exhibits any sign, symptom or
10 behavior consistent with a brain injury or has received a
11 medical release from a licensed health care professional, the
12 prohibition shall be lifted.

13 E. The New Mexico activities association shall
14 promulgate rules providing for the appeal allowed in Subsection
15 D of this section. The appeal process shall be designed to
16 give a student athlete a timely review of a brain-injury
17 determination so that an adequate remedy is available if the
18 student athlete prevails on the appeal.

19 [~~G.~~] F. Each school district shall ensure that each
20 coach participating in school athletic activities in the school
21 district receives training provided pursuant to Paragraph (1)
22 of Subsection [~~D~~] G of this section.

23 [~~D.~~] G. The New Mexico activities association shall
24 consult with the brain injury advisory council and school
25 districts to promulgate rules to establish:

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1 (1) protocols and content consistent with
2 current medical knowledge for training each coach participating
3 in school athletic activities to:

4 (a) understand the nature and risk of
5 brain injury associated with athletic activity;

6 (b) recognize signs, symptoms or
7 behaviors consistent with a brain injury when a coach suspects
8 or observes that a student athlete has received a brain injury;

9 (c) understand the need to alert
10 appropriate medical professionals for urgent diagnosis or
11 treatment; and

12 (d) understand the need to follow
13 medical direction for proper medical protocols; and

14 (2) the nature and content of brain injury
15 information forms and educational materials for, and the means
16 of providing these forms and materials to, coaches, student
17 athletes and student athletes' parents or guardians regarding
18 the nature and risk of brain injury resulting from athletic
19 activity, including the risk of continuing or returning to
20 athletic activity after a brain injury.

21 ~~[E-]~~ H. At the beginning of each academic year or
22 participation in school athletic activities, a school district
23 shall provide a brain injury information form created pursuant
24 to Subsection ~~[D]~~ G of this section to a student athlete and
25 the student athlete's parent or guardian. The school district

1 shall receive signatures on the brain injury information form
2 from the student athlete and the student athlete's parent or
3 guardian before permitting the student athlete to begin or
4 continue participating in school athletic activities for that
5 academic year.

6 ~~[F.]~~ I. As used in this section:

7 (1) "academic year" means any consecutive
8 period of two semesters, three quarters or other comparable
9 units commencing with the fall term each year;

10 (2) "brain injury" means a body-altering
11 physical trauma to the brain, skull or neck caused by, but
12 not limited to, blunt or penetrating force, concussion,
13 diffuse axonal injury, hypoxia-anoxia or electrical charge;

14 (3) "school athletic activity" means a
15 sanctioned middle school, junior high school or senior high
16 school function that the New Mexico activities association
17 regulates;

18 (4) "student athlete" means a middle school,
19 junior high school or senior high school student who engages
20 in, is eligible to engage in or seeks to engage in a school
21 athletic activity; and

22 (5) "licensed health care professional"
23 means:

24 (a) a practicing physician or
25 physician assistant licensed pursuant to the Medical Practice

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1 Act;

2 (b) a practicing osteopathic physician
3 licensed pursuant to Chapter 61, Article 10 NMSA 1978;

4 (c) a practicing certified nurse
5 practitioner licensed pursuant to the Nursing Practice Act;

6 (d) a practicing osteopathic
7 physician's assistant licensed pursuant to the Osteopathic
8 Physicians' Assistants Act;

9 (e) a practicing psychologist licensed
10 pursuant to the provisions of the Professional Psychologist
11 Act; or

12 (f) a practicing athletic trainer
13 licensed pursuant to the provisions of the Athletic Trainer
14 Practice Act."

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