

Senate Bill 1547

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Expands list of health care professionals who can provide medical release to youth athlete who is suspected of having concussion. Prescribes requirements for health care professionals to be qualified to provide medical release.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to concussions sustained by youth athletes; creating new provisions; amending ORS 336.485
3 and 417.875; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 336.485 is amended to read:

6 336.485. (1) As used in this section:

7 (a) "Coach" means a person who instructs or trains members [*on*] **of** a school athletic team, as
8 identified by criteria established by the State Board of Education by rule.

9 [*(b) "Health care professional" means a physician licensed under ORS 677.100 to 677.228, psy-*
10 *chologist, physician assistant or nurse practitioner licensed or certified under the laws of this state.*]

11 **(b) "Qualified health care professional" means:**

12 **(A) A physician licensed pursuant to ORS 677.100 to 677.228; or**

13 **(B) A health care professional who meets the requirements described in section 3 of this**
14 **2018 Act to provide a medical release for a member of a school athletic team who is sus-**
15 **pected of having a concussion.**

16 (2)(a) Each school district shall ensure that coaches receive annual training to learn how to
17 recognize the symptoms of a concussion and how to seek proper medical treatment for a person **who**
18 **is** suspected of having a concussion.

19 (b) The board shall establish by rule:

20 (A) The requirements of the training described in paragraph (a) of this subsection, which shall
21 be provided by using community resources to the extent practicable; and

22 (B) Timelines to ensure that, to the extent practicable, every coach receives the training de-
23 scribed in paragraph (a) of this subsection before the beginning of the season for the school athletic
24 team.

25 (3) Except as provided in subsection (4) of this section:

26 (a) A coach may not allow a member of a school athletic team to participate in any athletic
27 event or training on the same day that the member:

28 (A) Exhibits signs, symptoms or behaviors consistent with a concussion following an observed
29 or suspected blow to the head or body; or

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (B) Has been diagnosed with a concussion.

2 (b) A coach may allow a member of a school athletic team who is prohibited from participating
 3 in an athletic event or training, as described in paragraph (a) of this subsection, to participate in
 4 an athletic event or training no sooner than the day after the member experienced a blow to the
 5 head or body and only after the member:

6 (A) No longer exhibits signs, symptoms or behaviors consistent with a concussion; and

7 (B) Receives a medical release [*form*] from a **qualified** health care professional.

8 (4) A coach may allow a member of a school athletic team to participate in any athletic event
 9 or training at any time after an athletic trainer registered by the Board of Athletic Trainers, **or a**
 10 **physician licensed pursuant to ORS 677.100 to 677.228**, determines that the member has not suf-
 11 fered a concussion. The athletic trainer **or physician** may, but is not required to, consult with a
 12 **qualified** health care professional in making the determination that the member **of a school ath-**
 13 **letic team** has not suffered a concussion.

14 **(5)(a) Except as provided by paragraph (b) of this subsection, no civil or criminal action,**
 15 **suit or proceeding may be commenced against a school district, members of a school district**
 16 **board or employees of a school district as a result of the death or injury of a member of a**
 17 **school athletic team if:**

18 **(A) The death or injury is related to a head injury sustained during an athletic event or**
 19 **training;**

20 **(B) The member of a school athletic team:**

21 **(i) Received a medical release as provided in subsection (3) of this section from a person**
 22 **whom a school district employee believed in good faith to be a qualified health care profes-**
 23 **sional; or**

24 **(ii) Was determined under subsection (4) of this section to have not suffered a**
 25 **concussion; and**

26 **(C) The member was allowed in good faith to participate in an athletic event or training.**

27 **(b) The civil and criminal immunities imposed by this subsection do not apply to an act**
 28 **or omission amounting to gross negligence or willful or wanton misconduct.**

29 **SECTION 2.** ORS 417.875 is amended to read:

30 417.875. (1) As used in this section:

31 (a) “Coach” means a person who volunteers for, or is paid to instruct or train members of, a
 32 nonschool athletic team.

33 [*b*] “*Health care professional*” means a physician licensed under ORS 677.100 to 677.228, psy-
 34 *chologist, physician assistant or nurse practitioner licensed or certified under the laws of this state.*]

35 [*c*] (b) “League governing body” means a governing body that:

36 (A) Oversees an association of nonschool athletic teams that provide instruction or training for
 37 team members and that may compete with each other; and

38 (B) Is affiliated with, or otherwise sponsored or organized by, a nonprofit corporation estab-
 39 lished as provided by ORS chapter 65.

40 [*d*] (c) “Nonschool athletic team” means an athletic team that includes members who are under
 41 18 years of age and that is not affiliated with a public school in this state.

42 (d) **“Qualified health care professional” means:**

43 **(A) A physician licensed pursuant to ORS 677.100 to 677.228; or**

44 **(B) A health care professional who meets the requirements described in section 3 of this**
 45 **2018 Act to provide a medical release for a member of a nonschool athletic team who is**

1 **suspected of having a concussion.**

2 (e) "Referee" means a person who volunteers or is paid to act as a referee, as an umpire or in
3 a similar supervisory position for events involving nonschool athletic teams.

4 (f) "Referee governing body" means a governing body that:

5 (A) Trains and certifies individuals to serve as referees for nonschool athletic team events; and

6 (B) Is affiliated with, or otherwise sponsored or organized by, a nonprofit corporation estab-
7 lished as provided by ORS chapter 65.

8 (2)(a) Each league governing body and each referee governing body shall ensure that the
9 coaches and the referees, respectively, receive annual training to learn how to recognize the symp-
10 toms of a concussion and how to seek proper medical treatment for a person **who is** suspected of
11 having a concussion.

12 (b) Each league governing body and each referee governing body shall adopt a policy that es-
13 tablishes:

14 (A) The requirements of the training described in paragraph (a) of this subsection; and

15 (B) Procedures that ensure that every coach and referee receives the training described in par-
16 agraph (a) of this subsection.

17 (3) Except as provided in subsection (4) of this section:

18 (a) A coach may not allow a member of a nonschool athletic team to participate in any athletic
19 event or training on the same day that the member:

20 (A) Exhibits signs, symptoms or behaviors consistent with a concussion following an observed
21 or suspected blow to the head or body; or

22 (B) Has been diagnosed with a concussion.

23 (b) A coach may allow a member of a nonschool athletic team who is prohibited from partic-
24 ipating in an athletic event or training, as described in paragraph (a) of this subsection, to partic-
25 ipate in an athletic event or training no sooner than the day after the member experienced a blow
26 to the head or body and only after the member:

27 (A) No longer exhibits signs, symptoms or behaviors consistent with a concussion; and

28 (B) Receives a medical release [*form*] from a **qualified** health care professional.

29 (4) A coach may allow a member of a nonschool athletic team to participate in any athletic
30 event or training at any time after an athletic trainer registered by the Board of Athletic
31 Trainers, **or a physician licensed pursuant to ORS 677.100 to 677.228**, determines that the mem-
32 ber **of a nonschool athletic team** has not suffered a concussion. The athletic trainer **or physician**
33 may, but is not required to, consult with a **qualified** health care professional in making the deter-
34 mination that the member **of a nonschool athletic team** has not suffered a concussion.

35 (5) The league governing body shall develop or use existing guidelines and other relevant ma-
36 terials, and shall make available those guidelines and materials, to inform and educate persons un-
37 der 18 years of age desiring to be a member [*on*] **of** a nonschool athletic team, the parents and legal
38 guardians of the persons and the coaches about the symptoms and warning signs of a concussion.

39 (6) For each year of participation, and prior to a person under 18 years of age participating as
40 a member [*on*] **of** a nonschool athletic team, at least one parent or legal guardian of the person must
41 acknowledge the receipt of the guidelines and materials described in subsection (5) of this section
42 and the review of those guidelines and materials by:

43 (a) The parent or legal guardian of the person; and

44 (b) If the person is 12 years of age or older, the person.

45 (7) A league governing body may hold an informational meeting prior to the start of any season

1 for each nonschool athletic team regarding the symptoms and warning signs of a concussion.

2 (8)(a) **Except as provided by paragraph (b) of this subsection**, any person who regularly
3 serves as a coach or as a referee and who complies with the provisions of this section is *[immune*
4 *from civil or criminal liability related to a head injury unless the person acted or failed to act because*
5 *of gross negligence or willful or wanton misconduct.]* **not liable in a criminal action or for civil**
6 **damages as a result of the death or injury of a member of a nonschool athletic team if:**

7 (A) **The death or injury is related to a head injury sustained during an athletic event or**
8 **training;**

9 (B) **The member:**

10 (i) **Received a medical release as provided in subsection (3) of this section from a person**
11 **whom the coach or referee believed in good faith to be a qualified health care professional;**
12 **or**

13 (ii) **Was determined under subsection (4) of this section to have not suffered a**
14 **concussion; and**

15 (C) **The member was allowed in good faith to participate in an athletic event or training.**

16 (b) **The civil and criminal immunities imposed by this subsection do not apply to an act**
17 **or omission amounting to gross negligence or willful or wanton misconduct.**

18 *[(b)]* (c) **Nothing in this [section] subsection shall be construed to affect the civil or criminal**
19 **liability related to a head injury of a person who does not regularly serve as a coach or a referee.**

20 **SECTION 3. (1) As used in this section, “health care professional” includes a chiropractic**
21 **physician, a naturopathic physician, a psychologist, a physical therapist, an occupational**
22 **therapist, a physician assistant, a nurse practitioner or an athletic trainer who is licensed,**
23 **certified or registered under the laws of this state.**

24 (2) **A health care professional meets the requirements of a qualified health care profes-**
25 **sional for the purposes of ORS 336.485 and 417.875 if the health care professional has a cer-**
26 **tificate as described in subsection (3) of this section.**

27 (3)(a) **A health care professional is eligible to receive a certificate for the purposes of**
28 **ORS 336.485 and 417.875 if the health care professional successfully completes an online pro-**
29 **gram that:**

30 (A) **Is established and maintained by Oregon Health and Science University;**

31 (B) **Establishes for health care professionals a foundation of knowledge related to the**
32 **assessment, diagnosis and management of sports-related concussions; and**

33 (C) **Informs health care professionals of:**

34 (i) **The requirements imposed by ORS 336.485 and 417.875 and any other related legal re-**
35 **quirements; and**

36 (ii) **Limitations of the training provided through the online program.**

37 (b) **For the online program, the university:**

38 (A) **Shall establish the program in consultation with health care professionals and other**
39 **stakeholders who are appropriately qualified for consultations;**

40 (B) **Shall ensure that the program is reviewed at least once every four years by health**
41 **care professionals and other stakeholders who are appropriately qualified to make the re-**
42 **view;**

43 (C) **Shall include minimum standards or clinical criteria that are evidence based and that**
44 **incorporate best practices in relation to the assessment, diagnosis and management of**
45 **sports-related concussions; and**

1 (D) May charge participants in the program a reasonable fee.

2 (4) Certificates issued by Oregon Health and Science University under this section are
 3 valid for a term of four years. A health care professional may continue to meet the re-
 4 quirements of a qualified health care professional for the purposes of ORS 336.485 and 417.875
 5 by renewing a certificate. The university shall prescribe the requirements for renewal, in-
 6 cluding requirements for additional training.

7 (5)(a) Except as provided by paragraph (b) of this subsection, no civil or criminal action,
 8 suit or proceeding may be commenced against Oregon Health and Science University, or any
 9 board member, officer or employee of the university, as a result of the death or injury of a
 10 member of a school athletic team or nonschool athletic team if:

11 (A) The death or injury is related to a head injury sustained during an athletic event or
 12 training; and

13 (B) The member received a medical release from a health care professional who held a
 14 certificate issued under this section.

15 (b) The civil and criminal immunities imposed by this subsection do not apply to an act
 16 or omission amounting to gross negligence or willful or wanton misconduct.

17 **SECTION 4.** (1) Section 3 of this 2018 Act and the amendments to ORS 336.485 and 417.875
 18 by sections 1 and 2 of this 2018 Act become operative on January 1, 2019.

19 (2) Oregon Health and Science University may take any action before the operative date
 20 specified in subsection (1) of this section that is necessary to enable the university, on and
 21 after the operative date specified in subsection (1) of this section, to exercise all of the du-
 22 ties, functions and powers conferred on the university by section 3 of this 2018 Act.

23 (3) Notwithstanding the operative date specified in subsection (1) of this section, a psy-
 24 chologist, a physician assistant or a nurse practitioner licensed or certified under the laws
 25 of this state may provide a medical release for a person to participate in an athletic event
 26 or training as provided by ORS 336.485 or 417.875 without a certificate issued under section
 27 3 of this 2018 Act if the medical release is provided prior to January 1, 2020.

28 **SECTION 5.** Not later than December 1, 2020, Oregon Health and Science University shall
 29 submit to an interim committee of the Legislative Assembly related to health care a report
 30 that provides the number of health care professionals from each profession identified in
 31 section 3 (1) of this 2018 Act who successfully completed the online program described in
 32 section 3 (3) of this 2018 Act.

33 **SECTION 6.** This 2018 Act being necessary for the immediate preservation of the public
 34 peace, health and safety, an emergency is declared to exist, and this 2018 Act takes effect
 35 on its passage.

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