

in that case

Shane is a professional rugby player who has a contract with a Super 12 team. Shane has been attending the team doctor (Dr Austin) for an acute episode of viral pericarditis in association with a flu-like illness lasting three to four days. This illness occurred in the week Shane's team had a bye. Shane has been subjectively well for the past 10 days, but there are still small detectable changes in his blood and ECGs, indicating that he has not yet fully returned to normal.

Shane wishes to play in the Super 12 semi-final next weekend. Dr Austin talks to Shane and tells him that he should have a little bit more time off until all the tests are completely clear because of the small risk of sudden death from playing sport with this condition. He also tells Shane that team administrators need to be informed. Shane is adamant that he will play and he pleads with Dr Austin not to tell anyone about his illness. Both Shane and Dr Austin have signed a contract with team administrators that include a statement to the effect that health information about players is to be shared with the coach and team management.

Shane is a very important player in the team's success and it is thought that if he plays well in the next two weeks he will get a place in the All Black squad. He has also been offered a contract with an international footwear company that could set him and his family up for life. The company have indicated they want him to get as much play time as possible before they confirm his contract.

response

Dr Clive Dreyer

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Huge amounts of natural talent, training and single-minded determination have brought Shane close to the top of his sport. Athletic prowess has also elevated him to the bottom of the commercial food chain. If you don't recognise this, you don't recognise a truism of professional sport. Vested interests permeate and manipulate to maximise financial reward. The promise of receiving some share of this is intoxicating and can distort risk perception. If that sounds harsh, then you are getting the picture.

I don't underestimate the Olympian values of sports participation and the enormous national honour of becoming

an All Black. Similarly, I don't overestimate the unscrupulous nature of the commercial pecking order. So what has this to do with Dr Austin and the medical esoterics of viral pericarditis and the 'small risk of sudden death'? Rationally, his concerns should take pre-eminence. After all he has the patient's best interests at heart (please excuse the pun) and sudden death is a rather worrisome thing ...

A reality check will, however, establish that he represents a virtual cultural interloper, an unwelcome, nagging voice in the wilderness, threatening to upset the aspirations of all concerned. Dr Austin must realise that while details may vary, similar

conflicts will arise with numbing regularity. He must also realise that professional sport is a 'spit and sawdust' business with little time for delicate medical sensibilities. His performance must be similarly uncompromising and business-like.

Therefore three points must be established. Firstly, is he correct in his concerns and has he sought the second opinion of a cardiologist relating to this cardiological problem? (In fact, he is correct, especially as Shane may have a myo-pericarditis for which there are established guidelines as described at the 26th Bethesda Conference 1994). By this process, with the weight of a second opinion, Shane may be convinced of a more prudent approach to his condition. This necessarily involves ensuring that Shane has an accurate understanding of all the information relevant to his desire to play. He may, however remain unswayed.

Secondly, despite Shane 'pleading' with Dr Austin not to declare his illness, I do believe that as the team doctor, it is part of his *raison d'être* to at least state whether in his medical opinion a player is fit to play or not. Dr Austin must decide on a means of disseminating appropriate information without breaching patient-doctor confidentiality – an ethic that I believe takes precedence over any contract regarding health information.

Declaring Shane as unfit (no details given) to an incredulous

coach who sees an apparently healthy athlete would be problematic. Almost certainly, Shane would now give permission for more limited information regarding diagnosis and prognosis to be divulged. This may be construed as coercion. It is not. No permission from Shane equals no further information to the coach.

The third issue must regard Dr Austin's actions should his advice be ignored, either by Shane, the management or both parties. I believe that if Dr Austin felt that Shane was being pressured to play against his better judgement, he should advocate in the strongest terms on behalf of his patient.

Ultimately, the outcome of such issues determines the tenability of the physician's position. I would personally find it easier to come to terms with Shane's desire to play than the coach's decision to put him in the side and at risk. I know that risk is part of the game. I know that every time a rugby player takes to the field there is a 'small risk of sudden death' (from a high cervical spine injury for example). I understand that careers are ephemeral, opportunities sometimes fleeting and potential rewards are great. I know that life is a sexually transmitted terminal disease and I accept that professional sport is a risky business. I also know that I could not work as a physician in an organisation that sanctioned risk to its athletes above and beyond the normal limits of the sport.

response

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Shane wants to play, but the decision is not his alone. It involves a whole club. It requires different parties to interact openly, candidly and in mutually supportive ways. It concerns short- and long-term interests of the club, the player and the doctor. Additionally, it may involve insurers and even the Injury Prevention, Rehabilitation and Compensation Act (ACC).

As a professional athlete, Shane should consider his status for his fans and try to be a suitable role model. He cannot do this if he blatantly disregards the team doctor's expert opinion or if he pressures the doctor into misleading the club.

Because Shane's condition is potentially extremely serious, it must not be discounted, even though Shane feels well. Part of Dr Austin's job is to inform the team manager which players are (un)fit. Shane and Dr Austin each have their own expertise and excellence and each needs to respect that in the other.

The doctor is Janus-like between the player and the club, with obligations to Shane as a patient and to the club as an expert on players' health. Those obligations sometimes conflict. They limit the normal doctor-patient confidentiality. This limitation is present in other situations, such as doctors examining patient/claimants' injuries for ACC and clinician/researchers in trials involving their own patients as participants. The health professional should ask, 'Why is it *me* that this person is seeing and for *whom*?' Where the answer involves an outsider (e.g., 'the club'), special caution is needed for conflicts of interest and for misunderstandings of the situation by the consulting patient.

The standard, that health information about one's patient is confidential, has exceptions. Usually disclosure is pursuant to the patient's consent. Some disclosure without consent is permitted where the public good substantially trumps confidentiality. This can be statutory mandatory reporting (e.g., child abuse, reportable diseases, driving incompetence, etc.) or common law disclosure (e.g., when there is a real threat of significant harm being done by the patient to identifiable individuals).

None of these exceptions apply here. Here, confidentiality is a mistaken assumption. Shane and Dr Austin's interaction is under the umbrella of the club. The club is a tacit party to what occurs between them relating to Shane's fitness to play. Shane compounds matters by asking Dr Austin not to tell anyone of his illness. This could be seen as a lack of respect for Dr Austin as a person, by asking Dr Austin to collude and mislead the club thereby undermining the trust between the club and the doctor. Shane is effectively asking the doctor to overlook his responsibilities to the club. Besides Kantian objections to misleading, it is pragmatically important for both Shane and the club to be able to trust Dr Austin. Were he to comply with Shane's request, the doctor would be letting the club down, morally and legally. Professionally, legally and ethically Dr Austin is committed to do his job with the skill and competence reasonably to be expected of a health professional in his position.

The case also exemplifies autonomy issues. The autonomy at stake is not just Shane's choice to play despite illness, but also that of Dr Austin and others parties to the decision-making; they need accurate information to be able to make an informed decision.

Being a contender for the All Blacks is irrelevant to the decision Dr Austin must make about Shane. However, it could provide a useful communication tool for Dr Austin to suggest to Shane that it might backfire if he played. He could exacerbate his condition – thus necessitating a longer lay-off and so no place in the All Blacks – or his play might be sub-standard – thus seeding a doubt in the selectors' minds about his overall suitability, long- and short-term.

Overall, the emphasis should be on injury prevention and on improving Shane's longer-term welfare, rather than on the immediate present. Shane needs to accept that he must sit this game out. Similarly, everyone needs to ignore the status of the particular game, however good it would be to have Shane playing in the semi-final. It helps here to ask oneself whether

instinctively one would still make the same decision if this were game three, say, of the regular season. If the decision would be different, one needs to say why it would be different. Finally, the possible commercial product endorsement contract is irrelevant. It hints at unreasonable inducement for Shane to do something adverse to his interests. If Shane is that good a player, there will be other opportunities.

Provided Dr Austin has good communication skills, Shane will accept his own unavailability for the semi-final. But, he'd better be there on the bench, cheering the lads on! Who knows, he might pick up some coaching skills that could be useful to him later in life or even now with his young fans' school teams.

response

Anton Oliver

Former All Black Captain

Firstly, the team management must be made aware of the situation regarding Shane and his condition. This is not simply based upon the fact that there is a written agreement in place already, although this would be sufficient in itself to share the information. This is both a betrayal of trust and faith in the team management and in an environment that should be based on shared knowledge and inclusiveness. There must be legal implications if anything did go wrong and the Doctor hadn't told anybody, I would assume he had complete liability in this instance.

So assuming that everyone has been informed, I think the decision is in the end Shane's for these reasons.

Shane's illness will not impair his performance, the risk in playing Shane will not affect the team's performance. If Shane had an injury say a hamstring tear, that would inhibit him from running at full pace but could get by at eighty percent then I believe the decision in this instance is the coach's (in a consultative fashion with the team's physio). If you give the player the choice to play in this scenario (especially younger players), they will always play. In reality they are putting the team's chances of success at risk by not being fully fit (not to mention their own aspirations at higher honours). I know this

because I have done it. There is no risk to their own health save a further tearing of the muscle in which case the issue then turns to player depth in that position and the misuse of the franchise's 'assets'.

In this case study Shane is a grown man, he has the ability and capacity to think independently for himself and to make his own informed decisions based on the facts presented to him.

If the worst was to happen and Shane did die, then I think it would be human nature for the coaches to feel guilt at allowing him to play. This type of thinking, however, need not be as long as there was absolutely no pressure in any way shape or form for Shane to play. This is the key I believe to the discussion, that Shane is under no pressure to play from the coaches in any way shape or form – 'the team needs you', 'you're letting us down if you don't play'. He clearly has reasons why he wants to play, All Black aspirations which equate to financial gains as well as the financial benefits from the sponsorship endorsements. The coach has no right to take these away from Shane because he doesn't want blood on his hands. This decision, I believe, is for Shane and his family to make, and it is theirs alone to make.