

It's Not "Personal": Health Information Disclosure and the Physical-Mental Distinction

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ABSTRACT

For almost eight decades, U.S. sports leagues have disclosed information about athletes' health with the stated goal of protecting the integrity of sports from betting-related manipulations. The leagues' treatment of such information, however, has been inconsistent: When professional athletes miss games due to physical injuries, leagues usually disclose such injuries in great specificity. By contrast, when players miss a game due to mental health issues, their absence is simply attributed to "personal reasons."

This Article documents this disparity and situates it within existing regulatory frameworks in the areas of privacy law, disability law, and sports betting regulation. The Article's main argument is that this practice cannot be justified on either factual or normative grounds. On the factual side, we review medical research showing that a stark dichotomy between "physical" and "mental" health is incompatible with the modern recognition that the body and the mind are interrelated systems. On the normative side, we argue that treating mental health issues as "personal reasons" may exacerbate the preexisting stigma surrounding mental health, may imply that mental health issues are not "real," and may obscure the sports leagues' responsibility for such issues.

To address these problems, this Article proposes several alternative methods of disclosing health status, taking into account the importance of preserving athletes'

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autonomy in regard to their mental health reporting. We conclude by discussing how the implications of this analysis may extend beyond the sports arena.

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INTRODUCTION

Why didn't Andre Drummond play in the Chicago Bulls' game against the Los Angeles Lakers on March 29, 2023? The answer depends on who you ask. According to the National Basketball Association ("NBA") injury report from that day, Drummond's absence was due to "Personal Reasons."¹ Drummond himself, however, provided a different explanation. The day before that game, he posted on social media that it was time for him "to focus on [his] mental health."² After the game, Drummond noted that he "had to take some time away," again citing mental health.³

1. *Injury Report: 03/29/23 05:30 PM*, NBA, (Mar. 29, 2023), https://ak-static.cms.nba.com/referee/injury/Injury-Report_2023-03-29_05PM.pdf

[https://web.archive.org/web/20231002172939/https://ak-static.cms.nba.com/referee/injury/Injury-Report_2023-03-29_05PM.pdf].

2. Jaylon Thompson, *Bulls Center Andre Drummond Ruled Out of Game Against Lakers After Posting About Mental Health*, USA TODAY (Mar. 30, 2023), <https://www.usatoday.com/story/sports/nba/bulls/2023/03/30/andre-drummond-sites-mental-health-social-media-ruled-out-game/11568465002/> [<https://web.archive.org/web/20260125011808/https://www.usatoday.com/story/sports/nba/bulls/2023/03/30/andre-drummond-sites-mental-health-social-media-ruled-out-game/11568465002/>].

3. *Andre Drummond on Missed Game: Needed Time Away to "Clear My Mind"*, ESPN (Apr. 2, 2023), https://www.espn.com/nba/story/_/id/36047495/bulls-andre-drummond-missed-game-needed-away-clear-my-mind [https://web.archive.org/web/20260119225910/https://www.espn.com/nba/story/_/id/36047495/bulls-andre-drummond-missed-game-needed-away-clear-my-mind].

The discrepancy regarding the cause of Drummond's absence was hardly an isolated incident. In recent years, there have been a number of cases in which U.S. sports leagues have invoked the "personal reasons" designation in reporting the absence of an athlete from games or practices due to mental health reasons.⁴ Given the detail required when

4. See, e.g., Stephen Holder, *Colts' Braden Smith Details Struggle, Recovery from Severe OCD*, ESPN (Apr. 8, 2025), https://www.espn.com/nfl/story/_/id/44590173/colts-braden-smith-details-struggle-recovery-severe-ocd

[https://web.archive.org/web/20250804023504/https://www.espn.com/nfl/story/_/id/44590173/colts-braden-smith-details-struggle-recovery-severe-ocd] (noting that NFL player Braden Smith, who had "missed the final five games of last season because of a personal matter," later revealed that the reason for the absence was an "obsessive-compulsive disorder that prompted him to spend forty-eight days in a treatment facility"); Dan Feldman, *Report: Kyrie Irving Took a Mental-Health Day in Missing Nets-76ers*, NBC SPORTS (Jan. 8, 2021), <https://www.nbcsports.com/nba/news/report-kyrie-irving-took-a-mental-health-day-in-missing-nets-76ers>

[<https://web.archive.org/web/20240617184720/https://www.nbcsports.com/nba/news/report-kyrie-irving-took-a-mental-health-day-in-missing-nets-76ers>] (reporting that NBA player Kyrie Irving "took a mental-health day" when the official injury report stated that the absence was due to "personal reasons"); Jordan Greer, *Is Ben Simmons Playing Tonight? Why 76ers Star Remains Out and How Philadelphia Is Handling His Absence*, SPORTING NEWS (Nov. 3, 2021), <https://www.sportingnews.com/us/nba/news/is-ben-simmons-playing-tonight-76ers-philadelphia/7o4zkg9whzuszz366mxt6pzf>

[<https://web.archive.org/web/20231129052402/https://www.sportingnews.com/us/nba/news/is-ben-simmons-playing-tonight-76ers-philadelphia/7o4zkg9whzuszz366mxt6pzf>] (noting that player Ben Simmons is "dealing with mental" health issues and "has been listed as out because of 'personal reasons' on recent injury reports"); Kerry Breen, *NFL Player Rejoins Team After Two-Week Absence to Address Anxiety and Depression*, TODAY (Oct. 18, 2021), <https://www.today.com/health/nfl-player-rejoins-team-after-absence-address-address-you-are-t234667>

[<https://web.archive.org/web/20211117155840/https://www.today.com/health/nfl-player-rejoins-team-after-absence-address-address-you-are-t234667>] ("After missing three games, Philadelphia Eagles right tackle Lane Johnson is opening up about his struggle with depression and anxiety . . . Previously, his team had said that he was missing games for 'personal reasons.'"); Lorenzo Reyes, *Atlanta Falcons WR Calvin Ridley Stepping Away From Football to Focus on Mental Health*, USA TODAY (Oct. 31, 2021), <https://www.usatoday.com/story/sports/nfl/falcons/2021/10/31/calvin-ridley-steps-away-football-mental-health-atlanta-falcons/6226824001/>

[<https://web.archive.org/web/20230310025226/https://www.usatoday.com/story/sports/nfl/falcons/2021/10/31/calvin-ridley-steps-away-football-mental-health-atlanta-falcons/6226824001/>] (reporting that "Atlanta Falcons receiver Calvin Ridley missed a game for 'personal reasons'" and that he posted on social media that he needs "to step away from football at this time and focus on [his] mental wellbeing"); *Chiefs' Willie Gay Says He's Struggling with Mental Health, Misses Practice for Personal Reasons*, NBC Sports (Oct. 8, 2021), <https://www.nbcsports.com/nfl/profootballtalk/rumor-mill/news/chiefs-willie-gay-says-hes-struggling-with-mental-health-misses-practice-for-personal-reasons>

[<https://web.archive.org/web/20241010005015/https://www.nbcsports.com/nfl/profootballtalk/rumor-mill/news/chiefs-willie-gay-says-hes-struggling-with-mental-health-misses-practice-for-personal-reasons>] ("Chiefs linebacker Willie Gay did not practice on Friday for what the team described as personal reasons, and he revealed on social media that he is struggling with his mental health."); Michael Lee, *How the NBA Got Serious About Mental Health*, WASH. POST (Apr. 19, 2022), <https://www.washingtonpost.com/sports/2022/04/19/nba-mental-health-demar-derozan/>

[<https://web.archive.org/web/20260107213007/https://www.washingtonpost.com/sports/2022/04/19/nba-mental-health-demar-derozan/>] ("Hachimura missed the first thirty-nine games of the regular season for what the team called 'personal reasons' and was welcomed back when he felt ready."); cf. Sarah Barshop, *Rams QB Stetson Bennett "Hungry" After Addressing Mental Health*, ESPN (May 28, 2024), https://www.espn.com/nfl/story/_/id/40236025/rams-qb-stetson-bennett-hungry-addressing-mental-health

[https://web.archive.org/web/20241009075411/https://www.espn.com/nfl/story/_/id/40236025/rams-

reporting *physical* injuries, this vague reporting is puzzling. Indeed, in the case of a physical injury, sports teams must “identify a specific” injury or illness.⁵

Thus, the question arises: Why do sports leagues disclose athletes’ physical injuries in great specificity, while using the umbrella category of “personal reasons” in reporting mental health issues? This question lies at the core of this Article.

The stakes are higher than issues of nomenclature. Although sports leagues have operated injury reporting systems for almost eight decades, recent years have witnessed an increased attention to information about athletes’ health, in part because such information is often used for sports betting, which has become popular in most states since the Supreme Court paved the way for legalization in 2018.⁶

The public’s thirst for information is not limited to physical injuries. Athletes’ mental health issues are also “receiving unprecedented attention in medical and

qb-stetson-bennett-hungry-addressing-mental-health] (“Speaking for the first time since he was placed on the reserve/non-football illness list last September, Los Angeles Rams backup quarterback Stetson Bennett confirmed his time away from the team was related to his mental health.”); see also Mike D. Sykes, II, *Ben Simmons’ Reported Grievance Against the 76ers and the Huge Implications that Come with It, Explained*, USA TODAY (Apr. 2, 2022), <https://ftw.usatoday.com/lists/ben-simmons-grievance-76ers-nba-explained> [<https://web.archive.org/web/20221127133539/https://ftw.usatoday.com/lists/ben-simmons-grievance-76ers-nba-explained>] (“[P]layers have been away from their teams for mental health reasons before . . . It’s normally something that shows up on the injury report in one way or another, generally listed as ‘personal reasons.’”). There is some evidence that in some instances, sports leagues also use other categories, such as “illness,” to report absences due to mental health issues. See Adam Teicher, *Chiefs’ Clyde Edwards-Helaire Discusses Struggles with PTSD*, ESPN (Aug. 1, 2024), https://www.espn.com/nfl/story/_/id/40700221/chiefs-clyde-edwards-helaire-discusses-struggles-ptsd [https://web.archive.org/web/20250421170719/https://www.espn.com/nfl/story/_/id/40700221/chiefs-clyde-edwards-helaire-discusses-struggles-ptsd] (“From time to time during his four seasons with the Kansas City Chiefs and as recently as earlier in training camp, running back Clyde Edwards-Helaire has missed practice time because of what the Chiefs called an illness. Edwards-Helaire recently posted on his X account the reason for his absences is post-traumatic stress disorder (PTSD).”).

5. *NBA Injury Report: 2025–26 Season*, NBA, <https://official.nba.com/nba-injury-report-2025-26-season/> [<https://web.archive.org/web/20260107230227/https://official.nba.com/nba-injury-report-2025-26-season/>] (last visited Jan. 24, 2026). As the National Football League (NFL) makes clear, “Listing an injury simply as ‘leg,’ ‘arm,’ ‘upper body,’ or other equally vague description, is not acceptable.” NFL, 2017 PERSONNEL (INJURY) REPORT POLICY 3 (2017), <https://operations.nfl.com/media/2683/2017-nfl-injury-report-policy.pdf> [<https://web.archive.org/web/20251026164029/https://operations.nfl.com/media/2683/2017-nfl-injury-report-policy.pdf>] (“Injuries must be identified with a reasonable degree of specificity in terms that are meaningful to coaches, other club officials, the media, and the public. For example, leg injuries must be specified as ankle, knee, thigh, or calf. Arm injuries must be identified as shoulder, elbow, wrist, hand, or muscle.”).

A notable exception is the National Hockey League (“NHL”), which allows teams to disclose general information about an athlete’s condition (e.g., “upper-body injury”) and does not require a reference to a specific body part. See Christopher R. Deubert, I. Glenn Cohen & Holly Fernandez Lynch, *Comparing Health-Related Policies and Practices in Sports: The NFL and Other Professional Leagues*, 8 HARV. J. SPORTS & ENT. L. 1, 89 (2017); Adam Kilgore, *Injury Secrecy Is an NHL Playoff Tradition—and a Dilemma for Bookmakers*, WASH. POST (May 9, 2022), <https://www.washingtonpost.com/sports/2022/05/09/nhl-injuries-gambling/> [<https://web.archive.org/web/20260105225053/https://www.washingtonpost.com/sports/2022/05/09/nhl-injuries-gambling/>].

6. See *infra* Part I.

research circles and among the general public.”⁷ Due to stigma and lack of reporting, exact data about the prevalence of mental health issues in professional and collegiate sports is hard to come by. It is clear, however, that a large portion of the athlete population often experiences anxiety, depression, trauma, addiction, and other mental health issues,⁸ affecting their athletic performance and daily lives.⁹ Most recently, in April 2025, National Football League (“NFL”) player Braden Smith revealed that he had “contemplated suicide” when experiencing an episode of severe obsessive-compulsive disorder (“OCD”).¹⁰ Major League Baseball (“MLB”) player Jarren Duran also recently revealed that he had attempted suicide after experiencing mental health issues.¹¹ And in May 2024, professional golfer Grayson Murray took his own life only one day after he had withdrawn from an official PGA Tour tournament in Texas.¹²

In exploring for the first time the physical-mental divide when it comes to disclosure of health information, we discuss three potential justifications for this phenomenon and rebut each of them in turn.¹³ Ultimately, we conclude that if sports leagues disclose athletes’ physical injuries in specificity, then the policy of treating mental health issues

7. See, e.g., Claudia K. Reardon, *The Mental Health Crisis in Sports: The Perfect Storm of Contemporary Factors*, 58 J. ATHLETIC TRAINING 677, 678 (2023) (“Mental health in sport is receiving unprecedented attention in medical and research circles and among the general public.”).

8. Yaron Covo, *Gambling on Disability Rights*, 43 COLUM. J.L. & ARTS 237, 263–64 (2020) (citing studies).

9. *Id.* at 272–73; see also Andrew Dampf, *Shiffrin Says She’s Dealing with PTSD After Crash and Won’t Defend Giant Slalom Title at Ski Worlds*, AP (Feb. 10, 2025), <https://apnews.com/article/mikaela-shiffrin-ptsd-skiing-world-championships-58c85737a5dc1263bd41e4679bcd781>

[<https://web.archive.org/web/20251125074551/https://apnews.com/article/mikaela-shiffrin-ptsd-skiing-world-championships-58c85737a5dc1263bd41e4679bcd781>] (reporting skier Mikaela Shiffrin would miss a competition due to PTSD); Jonathan Abrams, *“I Can’t Continue This Fight Any Longer,”* N.Y. TIMES (June 19, 2023), <https://www.nytimes.com/2023/06/19/sports/basketball/tyrell-terry-basketball-mental-health.html>

[<https://web.archive.org/web/20250724040830/https://www.nytimes.com/2023/06/19/sports/basketball/tyrell-terry-basketball-mental-health.html>] (describing basketball player Tyrell Terry’s decision to retire at the age of twenty-two due to anxiety and “intrusive thoughts”).

A number of athletes have noted that, while challenging, their conditions actually improved their performance by enhancing their ability to focus or concentrate. TIM HOWARD (WITH ALI BENJAMIN), *THE KEEPER* 29–30 (2014); Aimee Berg, *The Boxing Champion Who Battles O.C.D.*, N.Y. TIMES (July 31, 2019), <https://www.nytimes.com/2019/07/31/sports/virginia-fuchs-boxing-ocd.html>

[<https://web.archive.org/web/20221125130325/https://www.nytimes.com/2019/07/31/sports/virginia-fuchs-boxing-ocd.html>].

10. Holder, *supra* note 4.

11. *Jarren Duran Reveals Suicide Attempt Amid Mental Health Struggles*, ESPN (Apr. 7, 2025), https://www.espn.com/mlb/story/_/id/44571881/jarren-duran-reveals-suicide-attempt-amid-struggles-depression

[https://web.archive.org/web/2025112164049/https://www.espn.com/mlb/story/_/id/44571881/jarren-duran-reveals-suicide-attempt-amid-struggles-depression].

12. *Family Says PGA Tour Golfer Grayson Murray Died by Suicide*, ESPN (May 26, 2024), https://www.espn.com/golf/story/_/id/40222743/family-reveals-pga-tour-golfer-grayson-murray-died-suicide

[https://web.archive.org/web/20250110012730/https://www.espn.com/golf/story/_/id/40222743/family-reveals-pga-tour-golfer-grayson-murray-died-suicide].

13. See *infra* Part II.

as “personal reasons” cannot be justified on either factual or normative grounds. Thus, for example, on the factual side, the artificial dichotomy between “physical” and “mental” health is incompatible with the modern medical view that the body and mind are both interrelated and one and the same.¹⁴ Moreover, on the normative side, referring to mental health issues as “personal” matters may exacerbate the preexisting stigma surrounding mental health in contemporary society;¹⁵ may imply that mental health issues are not “real” injuries;¹⁶ and may obscure the sports leagues’ responsibility for addressing athletes’ mental health issues.¹⁷

While investigating sports leagues’ injury reports is thus important in its own right, analyzing the practice of treating physical and mental health differently can serve as a clarifying lens through which to explore the law and policy of health-information disclosure more generally.¹⁸ In fact, scholars and commentators have long grappled with whether certain public figures, such as presidential candidates and CEOs of publicly traded companies, should be required to disclose information about their health.¹⁹ Some argue that such disclosures are warranted, either as moral obligation to the electorate (in the case of candidates for public office)²⁰ or to satisfy securities laws’

14. See *infra* Part II.A.

15. See *infra* Part II.B.

16. See *infra* Part II.C.

17. See *infra* Part II.C.

18. Henry T. Greely, *Disabilities, Enhancements, and the Meanings of Sports*, 15 STAN. L. & POL’Y REV. 99, 99 (2004) (“For better and for worse, sports in contemporary America sometimes serve as a model of the larger society.”); Sherman Clark, *Why Sports Law?*, 28 STAN. L. & POL’Y REV. 151, 152 (2017) (“[S]ports cases frequently require us to rethink what we think we know about law, economics, and society.”); Mitchell Berman, *Let ‘Em Play’: A Study in the Jurisprudence of Sport*, 99 GEO. L.J. 1325, 1325–26 (2011) (conceptualizing the “jurisprudence of sport”).

19. See, e.g., Patricia Sánchez Abril & Ann M. Olazábal, *The Celebrity CEO: Corporate Disclosure at the Intersection of Privacy and Securities Law*, 46 HOU. L. REV. 1545, 1583–89 (2010) (arguing that publicly-traded companies should not be required to disclose information about their CEOs’ physical or mental health, pointing to “the highly intrusive and practically unworkable nature of such a regulation in relation to the value of the information it could provide to shareholders”); Teneille R. Brown, *Double Helix, Double Standards: Private Matters and Public People*, 11 J. HEALTH CARE L. & POL’Y 295, 372 (2008) (concluding that “mandated disclosure” of genetic information of presidential candidates “is not warranted in the public interest at this time”); Rebecca Green, *Candidate Privacy*, 95 WASH. L. REV. 205, 256 (2020) (arguing that privacy considerations should receive increased attention in the context of disclosure of information about candidates for public office).

20. Editorial, *Full Disclosure on Candidates’ Health*, N.Y. TIMES (Sep. 13, 2016), <https://www.nytimes.com/2016/09/13/opinion/full-disclosure-on-candidates-health.html> [<https://web.archive.org/web/20240123233530/https://www.nytimes.com/2016/09/13/opinion/full-disclosure-on-candidates-health.html>] (“Hillary Clinton and Donald Trump would be doing American voters a great service by furnishing a much clearer picture of their physical health than the abbreviated and sunny reports provided so far.”); Daniela J. Lamas, *I’m a Doctor and a Voter. Here’s How I’m Thinking About the Health of Trump and Biden*, N.Y. TIMES (June 24, 2024), <https://www.nytimes.com/2024/06/24/opinion/biden-trump-health-conditions.html> [<https://web.archive.org/web/20250804073034/https://www.nytimes.com/2024/06/24/opinion/biden-trump-health-conditions.html>] (“[W]e would benefit from pertinent medical data that is consistent among candidates.”).

materiality standard (in the case of corporate executives).²¹ Recently, these questions have taken on increased significance in the wake of the 2024 elections²² and publicity concerning health conditions experienced by prominent corporate executives.²³

While previous research has focused on the disclosure dilemma as a general matter, it has largely neglected the question of what constitutes health information for the purpose of disclosure, with little attention to the division between physical and mental health.²⁴ This Article addresses that gap by analyzing the disclosure practices regarding

21. Joan MacLeod Heminway, *Personal Facts About Executive Officers: A Proposal for Tailored Disclosures to Encourage Reasonable Investor Behavior*, 42 WAKE FOREST L. REV. 749, 762 (2007) (arguing that, under certain circumstances, information about an executive's health "may be important to a reasonable investor" as it "may indicate the possibility that the corporation will be without the executive's services either temporarily or permanently"); Tom C.W. Lin, *Undressing the CEO: Disclosing Private, Material Matters of Public Company Executives*, 11 U. PA. J. BUS. L. 383, 387 (2009) (arguing for "more meaningful, material disclosure and less privacy for executives while working within the existing regulatory framework").

22. See, e.g., The Daily, *A Reckoning over Joe Biden's Health*, N.Y. TIMES (May 20, 2025), <https://www.nytimes.com/2025/05/20/podcasts/the-daily/joe-biden-cancer-book-health.html> [<https://web.archive.org/web/20250704142049/https://www.nytimes.com/2025/05/20/podcasts/the-daily/joe-biden-cancer-book-health.html>] (discussing the level of transparency surrounding the health condition of President Joe Biden during his presidency); Steve Peoples & Lauren Neergaard, *Trump Would Be the Oldest Person to Become President. He's Not Sharing Health Details*, AP (Oct. 16, 2024), <https://apnews.com/article/trump-harris-presidential-election-age-health-medical-records-7bb8212c1024748371e43b85e137bae5/> [<https://web.archive.org/web/20251203160536/https://apnews.com/article/trump-harris-presidential-election-age-health-medical-records-7bb8212c1024748371e43b85e137bae5/>] (noting that "fundamental questions about Trump's health" remain unanswered).

23. See, e.g., Ben W. Heineman Jr., *Disclosure of Steve Jobs's Illness: Round 2*, ATLANTIC (Jan. 21, 2011), <https://www.theatlantic.com/business/archive/2011/01/disclosure-of-steve-jobs-illness-round-2/70007/> [<https://web.archive.org/web/20221001063144/https://www.theatlantic.com/business/archive/2011/01/disclosure-of-steve-jobs-illness-round-2/70007/>] (discussing CEO health disclosures with a focus on Apple CEO Steve Jobs, who had cancer); Alex Barinka, *Should Meta Disclose Mark Zuckerberg's Cage Fighting Risk?*, BLOOMBERG (Nov. 10, 2023), <https://www.bloomberg.com/news/newsletters/2023-11-10/should-meta-disclose-mark-zuckerberg-s-cage-fighting-risk> [<https://perma.cc/2CPU-NUF9>] (discussing whether Meta should disclose information about CEO Mark Zuckerberg's participation in martial arts and the attendant health risks).

24. See, e.g., Heminway, *supra* note 21, at 750 (addressing the question of disclosure of information about executives' "terminal or other serious illness and related medical treatments" without defining those terms); Lin, *supra* note 21, at 412 (noting that a diagnosis of a fatal illness is an "example" of "the type of information that should be disclosed about senior executives" without providing a definition of the term or explaining whether other medical conditions should also be disclosed); Sánchez Abril & Olazábal, *supra* note 19, at 1586 (using the following questions (left unanswered) as a rhetorical tool to argue against disclosure of health information: "What would be the parameters of a line-item disclosure requiring companies to report on their CEO's health? Would only conditions as opposed to medical procedures be important enough to disclose? If both, what types of medical conditions or procedures would merit disclosure?"); cf. Brown, *supra* note 19, at 363 ("A theoretical problem with disclosure is that the list of diseases or disorders for which testing is mandated will inevitably be both over and under-inclusive. Due to the universe of possible neurological or cardiac diseases that could debilitate the President's decision-making capacity, it would be impossible to tailor a subset of genetic tests that captures everything without including some that are less relevant."); George J. Annas, *The Health of the President and Presidential Candidates: The Public's Right to Know*, 333 LEGAL ISSUES IN MED. 945, 947-948 (1995) (arguing that in general "there should be limits on what presidential candidates should be expected to disclose about their physical and mental health," and specifically arguing against disclosure of past psychiatric episodes, abortion, HIV, and genetic tests); Drew Altman, *Risks in "Full"*

health information in the professional sports arena. While this Article does not provide a comprehensive framework to regulate the disclosure of health information in other contexts, it points to the risks of hiding mental health in otherwise detailed disclosures of public figures' health information.

To be clear, we do not propose to subject athletes to unwanted disclosure of their mental health conditions. In fact, the avenue for reform that we find most socially desirable is to put an end to sports leagues' disclosure of information about players' health—either physical or mental.²⁵ At the same time, we argue that the status quo—whereby physical conditions are reported in specificity and mental health issues are treated as a “personal matter”—cannot be fully justified.²⁶

So, what can be done to change the status quo? Although we propose several alternative methods of reporting athletes' health status, it is highly unlikely that any of these reforms can be achieved through private litigation or state intervention. The reason has to do with the unique nature of injury reporting systems, which are subject to virtually no external regulation and governed almost exclusively by private ordering. Ultimately, we conclude that the most effective pathway for reform lies in athletes' contractual and collective bargaining rights.

Part I of this Article introduces U.S. sports leagues' injury reporting systems and explains their function, purpose, and legal status. It further explains that when it comes to mental health issues, sports leagues do not use a specific designation in reporting, but rather often resort to the “personal reasons” designation, an umbrella category that covers a variety of reasons for absences, including family-related reasons.

Part II explores possible justifications for the discrepancy between physical and mental conditions in injury reporting systems. It discusses three possible justifications: first, that physical and mental health are distinct categories that necessarily dictate different kinds of reporting criteria; second, that athletes have a privacy interest in preventing disclosure of information about their mental health—an interest that does not arise vis-à-vis their physical health; and third, that, unlike physical injuries, mental health issues are not closely related to one's engagement in professional sports.

Finding that the first justification is factually inaccurate and that the last two are, at least in part, normatively problematic, Part III offers another possible explanation for this practice by analyzing the political economy of injury reporting systems in the era of legalized sports betting. In Part IV, we turn to discuss alternative methods of reporting athletes' availability, including the option not to disclose any information that pertains to athletes' health. Part IV also analyzes possible legal pathways to advance reform, concluding that public advocacy and athletes' collective bargaining rights

Disclosure of Presidential Candidates' Health Records, WALL ST. J. (Sep. 13, 2016), <https://www.wsj.com/articles/BL-WB-65429>

[<https://web.archive.org/web/20241210163836/https://www.wsj.com/articles/BL-WB-65429>] (suggesting that “serious heart disease or cancer” might warrant disclosure but not “an episode of depression years before”).

25. See *infra* Part IV.B.1.

26. See *infra* Part II.

provide the most promising avenue for change. Lastly, we conclude by situating our claims within the broader literature on disclosure of public figures' health information.

We note that, in October 2025, after work on this Article had largely been completed, federal prosecutors indicted people allegedly involved in attempts to manipulate betting on NBA games.²⁷ Part of the charges referred to the use of "medical information."²⁸ According to the indictment, such information was "non-public,"²⁹ in part because it had not yet appeared on the relevant NBA injury report.³⁰ In response to this scandal, the NBA has announced several policy changes, including requiring teams to submit more frequent injury reports.³¹

Although these developments do not directly pertain to the physical-mental distinction in health information disclosures, they have important implications for one dilemma explored in this Article: How to regulate the disclosure of athletes' health information in a reality where access to nonpublic information can be used to manipulate sports betting. Thus, while this Article does not discuss these recent developments at length, we believe that this alleged betting scandal and its ensuing ramifications further highlight the importance of our analysis. As policymakers consider implementing changes to sports leagues' injury reports, they should pay attention to the problematic use of the "personal reasons" designation to report mental health issues.

I. INJURY REPORTING SYSTEMS AND THE PHYSICAL-MENTAL DISTINCTION

The majority of the prominent U.S. sports leagues, including the NBA,³² NFL,³³ National Women Soccer League ("NWSL"),³⁴ and Major League Soccer ("MLS")³⁵

27. Indictment, *United States v. Earnest*, No. 25-CR-323 (E.D.N.Y. Oct. 16, 2025), <https://www.justice.gov/usao-edny/media/1416611/dl> [<https://perma.cc/H2SD-A6VM>].

28. *Id.* at ¶¶ 54–55.

29. *Id.* at ¶¶ 54–59.

30. *Id.* at ¶ 55, 58.

31. Mike Vorkunov, *NBA Outlines New Injury Reporting Rules in Effort to Curb Illegal Sports Betting*, *The ATHLETIC* (Dec. 19, 2025), <https://www.nytimes.com/athletic/6905154/2025/12/19/nba-illegal-sports-betting-gambling-injury-reporting-memo/> [<https://perma.cc/XFE9-LKHP>]; David Purdum, *NBA Outlines Injury Reporting, Prop Betting Changes in Memo to Teams*, *ESPN* (Dec. 19, 2025), https://www.espn.com/nba/story/_/id/47361909/nba-outlines-injury-info-prop-betting-changes-memo-teams [https://web.archive.org/web/20260110084416/https://www.espn.com/nba/story/_/id/47361909/nba-outlines-injury-info-prop-betting-changes-memo-teams].

32. *NBA Injury Report*, *supra* note 5.

33. *NFL Injury Report*, NFL, <https://www.nfl.com/injuries/> [<https://web.archive.org/web/20260106185420/https://www.nfl.com/injuries/>] (last visited Jan. 25, 2026).

34. *Availability Report*, NWSL, <https://www.nwslsoccer.com/news/availability-report> [<https://web.archive.org/web/20260106185739/https://www.nwslsoccer.com/news/availability-report>] (last visited Jan. 8, 2026).

35. *Player Availability Report*, MLS, <https://www.mlssoccer.com/news/mlssoccer-com-injury-report> [<https://web.archive.org/web/20251109072604/https://www.mlssoccer.com/news/mlssoccer-com-injury-report>] (last visited Jan. 8, 2026).

employ some form of injury reporting system. Because of their prevalence and somewhat routine nature, injury reports may appear to be a technical component of the leagues' operation. Yet below the surface, questions with important normative implications lurk: Do such reports violate players' interest in their medical privacy? Should injury reports be employed in college sports, or only in professional sports? What is the scope of injury reports in terms of team personnel—should they cover executives and coaches, or only players? And lastly, how should pregnancy and mental health issues be reported, if at all?

This Part includes the necessary background for understanding the operation of injury reports in the United States. It provides an overview of how the above questions are being addressed on the ground, with a focus on the perceived distinction between physical and mental health. Section A describes the history and scope of injury reports and their contemporary role in maintaining the “integrity” of betting markets. Section B situates injury reports within the legal apparatus that pertains to disclosure of health information of professional athletes. Lastly, Section C explains how sports leagues have reported absences due to mental health issues, drawing in part on an original study of publicly-available data that pertain to missed games and practices by NFL players.

A. INJURY REPORTING SYSTEMS: PURPOSE, FUNCTION, AND SCOPE

Even though sports betting is a worldwide phenomenon, sports leagues in other countries do not disclose athletes' injuries in the same way American sports leagues do.³⁶ Thus, in many respects, injury reports are yet another example of American exceptionalism.

In U.S. professional sports, injury reports have always been connected to sports betting. As early as 1947, then-NFL Commissioner Bert Bell directed NFL teams to disclose information about injured players who might not be able to play ahead of each game.³⁷ The stated purpose of this then-new rule was to “protect the integrity of the league.”³⁸ Specifically, Bell wanted to protect the general “public” (including “fans who bet \$10 and \$20 on games”)³⁹ from professional gamblers who used inside information about players' health to manipulate sports betting markets.⁴⁰ Bell referred to the NFL injury reports as a “weapon” used “to thwart gamblers.”⁴¹

36. Steve Madeley, *Why Do Football Managers Lie About Player Injuries—And Does It Matter?*, THE ATHLETIC (Nov. 18, 2024), <https://www.nytimes.com/athletic/5925045/2024/11/18/football-managers-lie-injuries/> [<https://web.archive.org/web/20260105233746/https://www.nytimes.com/athletic/5925045/2024/11/18/football-managers-lie-injuries/>] (describing the situation in England).

37. Al Costello, *Bell Orders Teams to Keep Public Posted on Injuries*, WASH. POST, July 16, 1947, at 17; Francis E. Stann, *Bell Orders Injury News for Public*, WASH. STAR, July 15, 1947, at A-14.

38. ROBERT S. LYONS, *ON ANY GIVEN SUNDAY: A LIFE OF BERT BELL* 134–35 (2010).

39. *Id.* at 135.

40. *Id.* As part of Bell's attempts to monitor betting markets, he once discovered that a sudden and dramatic shift in the betting lines with respect to one team resulted from sportsbook's access to nonpublic information according to which five players of the pertinent team had the flu. *Id.* at 283.

41. Stann, *supra* note 37.

To this day, sports betting is the primary (though not the only)⁴² reason why sports leagues disclose information about athletes' health.⁴³ This has been particularly so since May 2018, when the Supreme Court issued its decision in *Murphy v. Nat'l Collegiate Athletic Ass'n*.⁴⁴ In that case, the Court struck down the Professional and Amateur Sports Protection Act, which prohibited most states from sponsoring sports betting activities within their jurisdictions.⁴⁵ Following *Murphy*, states have advanced pertinent laws within their jurisdictions. As of writing, thirty-nine states and Washington D.C. have passed laws authorizing sports betting.⁴⁶ In this new era of legalized sports wagering, sports leagues have increased their attempts to prevent manipulation of betting markets, including by releasing injury reports and scrutinizing the circumstances surrounding players' availability to play.⁴⁷

From the bettors' perspective, injury reports appear to be particularly relevant for "prop bets," which are "wagers on specific events or outcomes in a game."⁴⁸ Such betting allows gamblers to place a wager on the performance of a specific player at a certain game, such as the number of points the player would score in the first half.⁴⁹ Thus, the health status of every player, even those who do not play a leading role in their respective teams, becomes important for the purpose of sports betting.

42. Other reasons are to provide information to fans who buy game tickets and to allow a team that prepares for a certain game to have an accurate picture about the availability of the players of the opposing team. Deubert et al., *supra* note 5, at 97. *But see id.* ("If neither club knows the nature of the other club's injuries, both clubs have an equal (and fair) level of uncertainty.")

43. Deubert et al., *supra* note 5, at 97; Michael K. McChrystal, *No Hiding the Ball: Medical Privacy and Pro Sports*, 25 MARQ. SPORTS L. REV. 163, 179 (2014).

44. 584 U.S. 453 (2018).

45. 28 U.S.C. § 3702 (repealed).

46. *State of Play: Sports Betting* (Interactive Map), AM. GAMING ASS'N, <https://www.americangaming.org/research/state-gaming-map/> [<https://web.archive.org/web/20260103021416/https://www.americangaming.org/research/state-of-play-map/>] (last visited Jan. 23, 2026).

47. *See, e.g.*, Official Release, *Suns Fined \$25K for Violating League Injury Reporting Rules*, NBA (Apr. 30, 2022), <https://www.nba.com/news/suns-fined-25k-for-violating-league-injury-reporting-rules> [<https://web.archive.org/web/20251229224931/https://www.nba.com/news/suns-fined-25k-for-violating-league-injury-reporting-rules>]; *NBA Fines Jazz for Violating Player Participation Policy*, ESPN (Mar. 12, 2025), https://www.espn.com/nba/story/_/id/44225237/nba-fines-jazz-violating-player-participation-policy [https://web.archive.org/web/20251230001155/https://www.espn.com/nba/story/_/id/44225237/nba-fines-jazz-violating-player-participation-policy]; Mike Vorkunov, *Big Parlays, Fake Injuries, and Telegram Tips: The Betting Scandal in College and Pro Sports*, THE ATHLETIC (Apr. 16, 2025), <https://www.nytimes.com/athletic/6264822/2025/04/16/sports-betting-gambling-nba-ncaa-college/> [<https://web.archive.org/web/20251230001531/https://www.nytimes.com/athletic/6264822/2025/04/16/sports-betting-gambling-nba-ncaa-college/>].

48. Michael McCann & Eben Novy-Williams, *NCAA Push to Ban Prop Betting Is a Complex Wager*, SPORTICO (Mar. 27, 2024), <https://www.sportico.com/law/analysis/2024/ncaa-seeks-prop-betting-ban-1234772725/> [<https://web.archive.org/web/20251230224154/https://www.sportico.com/law/analysis/2024/ncaa-seeks-prop-betting-ban-1234772725/>].

49. *Id.*

The fact that injury reports play a central role in the emerging U.S. sports betting apparatus attests to their popularity.⁵⁰ Indeed, the information disclosed in injury reports is used by bettors wishing to improve their chances to place a winning wager in an industry that saw gamblers placing “nearly \$150 billion worth of bets” in 2024.⁵¹

Some commentators argue that the general idea of injury reports is akin to that of mandatory disclosure in the regulation of stock markets.⁵² In the stock-market context, securities laws mandate public companies to disclose periodic and special reports with the goal “to provide equal access to the company’s most important information.”⁵³ Similarly, in the sports context, the leagues require teams to disclose the injury status of their players to “serve the interests of gamblers who rely on such information in placing bets on sports events”⁵⁴ while prohibiting athletes from “tipping” (disclosing material nonpublic information that may be used for sports betting).⁵⁵ There is at least one important difference, however: While mandatory disclosure in the stock-market context focuses on financial information that pertains to corporations, injury reporting systems disclose information that pertains to individuals’ health.

Although players are not the only members of their respective teams, they are the only ones whose health information is included in injury reports. For example, when San Antonio Spurs’ legendary coach Gregg Popovich had missed NBA games starting November 2024, his name did not appear in the league’s injury reports.⁵⁶ The team

50. Thirty-seven percent of respondents in a recent poll stated that they had placed a sports bet during their lifetime, and the percentage among sports fans rose to almost fifty percent. Michael Ricciardelli & Marty Appel, *Sports Poll: Super Bowl Marks Big Week for Sports Betting, But Has the Pace Slowed?*, STILLMAN SCH. BUS. SETON HALL U. (Feb. 23, 2024), <https://www.shu.edu/business/news/sports-poll-finds-slowed-growth-for-sports-betting.html>

[<https://web.archive.org/web/20251231202723/https://www.shu.edu/business/news/sports-poll-finds-slowed-growth-for-sports-betting.html>]. Thus, even if only some of those who gamble rely on injury reports, these reports’ popularity appears to be skyrocketing.

51. Doug Greenberg, *Sports Betting Industry Posts Record \$13.7B Revenue for '24*, ESPN (Feb. 19, 2025), https://www.espn.com/espn/betting/story/_/id/43922129/us-sports-betting-industry-posts-record-137b-revenue-24

[https://web.archive.org/web/20251231202933/https://www.espn.com/espn/betting/story/_/id/43922129/us-sports-betting-industry-posts-record-137b-revenue-24].

52. Ryan Grandeau, Note, *Securing the Best Odds: Why Congress Should Regulate Sports Gambling Based on Securities-Style Mandatory Disclosure*, 41 CARDOZO L. REV. 1229, 1231–32, 1254, 1256 (2020) (analogizing the concept of injury reports to corporate disclosure requirements).

53. James J. Park, *Insider Trading and the Integrity of Mandatory Disclosure*, 2018 WIS. L. REV. 1133, 1136.

54. McChrystal, *supra* note 43, at 179.

55. See generally Covo, *supra* note 8 (documenting and analyzing sports leagues’ “anti-tipping” rules); see also Richard Johnson, *Tulane to Require Coaches, Staff to Sign NDA as Precautionary Move Against Sports Betting*, SPORTS ILLUSTRATED (Aug. 24, 2023), <https://www.si.com/college/2023/08/24/tulane-nda-nondisclosure-agreement-insider-info-betting-gambling>

[<https://web.archive.org/web/20251231203946/https://www.si.com/college/2023/08/24/tulane-nda-nondisclosure-agreement-insider-info-betting-gambling>] (noting that Tulane University requires athletes and coaches to sign a non-disclosure agreement pursuant to which sports personnel are prohibited from disclosing “confidential information” that may be used for betting).

56. See, e.g., *Injury Report, 11/15/2024 02:30 PM*, NBA (Nov. 15, 2024), https://ak-static.cms.nba.com/referee/injury/Injury-Report_2024-11-15_02PM.pdf

instead had publicly explained that Popovich was absent due to an “undisclosed illness.”⁵⁷ It took the team ten additional days to disclose that Popovich had experienced a stroke⁵⁸—after which he never returned to coaching.⁵⁹ Reasonable minds may disagree about how the absence of a coach from a certain game may affect the team’s chances to win, but when it comes to Popovich—who won five NBA titles and holds the record for the most victories among the league’s coaches,⁶⁰ it is hard to argue that his absence is meaningless. And yet, neither Popovich nor any other NBA coach or team executive have appeared on the league’s injury report.

So far, injury reporting systems have only been employed by professional sports leagues. There are some indications, however, that college sports may follow suit. Specifically, the Southeastern (“SEC”), Mid-American (“MAC”), Atlantic Coast (“ACC”), and the Big Ten conferences have recently started to require teams to report the availability of their athletes for forthcoming games.⁶¹ Importantly, these reports are limited to the question whether a college athlete would be available for a certain game; no details about the reasons behind a potential absence are to be provided in those reports. A number of commentators, however, have called on the National Collegiate Athletic Association (“NCAA”) to implement an injury reporting system, reasoning that disclosure of information regarding athletes’ health is essential to maintain the

[https://web.archive.org/web/20251231203942/https://ak-static.cms.nba.com/referee/injury/Injury-Report_2024-11-15_02PM.pdf].

57. *Spurs’ Gregg Popovich Misses Game vs. Wolves Due to Illness*, ESPN (Nov. 2, 2024), https://www.espn.com/nba/story/_/id/42155705/spurs-gregg-popovich-misses-game-vs-wolves-due-illness

[https://web.archive.org/web/20251231204305/https://www.espn.com/nba/story/_/id/42155705/spurs-gregg-popovich-misses-game-vs-wolves-due-illness].

58. Michael C. Wright, *Gregg Popovich Recovering from Nov. 2 Stroke, Spurs Say*, ESPN (Nov. 13, 2024), https://www.espn.com/nba/story/_/id/42369859/gregg-popovich-recovering-nov-2-stroke-spurs-say

[https://web.archive.org/web/20251231204833/https://www.espn.com/nba/story/_/id/42369859/gregg-popovich-recovering-nov-2-stroke-spurs-say].

59. Tim Reynolds, *Gregg Popovich, the NBA’s All-Time Wins Leader, Retires After Twenty-nine Seasons as San Antonio Spurs Coach*, AP (May 2, 2025), <https://apnews.com/article/spurs-gregg-popovich-retires-d721a3d62bcd3946f0c3a23b1f096d>

[<https://web.archive.org/web/20251231204907/https://apnews.com/article/spurs-gregg-popovich-retires-d721a3d62bcd3946f0c3a23b1f096d>].

60. *NBA Coaches with Most Wins in History*, NBA (Sept. 9, 2024), <https://www.nba.com/news/nba-coaches-with-most-wins-in-history>

[<https://web.archive.org/web/20251231205527/https://www.nba.com/news/nba-coaches-with-most-wins-in-history>].

61. Mark Schlabach, *SEC Starts Availability Reports for Football, Basketball, Baseball*, ESPN (Aug. 29, 2024), https://www.espn.com/college-football/story/_/id/41044110/sec-starts-availability-reports-football-basketball-baseball

[https://web.archive.org/web/20251231205528/https://www.espn.com/college-football/story/_/id/41044110/sec-starts-availability-reports-football-basketball-baseball]; David Hale, *ACC to Release Availability Reports Before Conference Games*, ESPN (July 22, 2025), https://www.espn.com/college-football/story/_/id/45794684/acc-start-releasing-injury-reports-conference-games

[https://web.archive.org/web/20251231205615/https://www.espn.com/college-football/story/_/id/45794684/acc-start-releasing-injury-reports-conference-games].

integrity of betting markets in an era of legalized sports betting.⁶² And given the gradual shift toward professionalization of collegiate sports,⁶³ it is likely that some policymakers will attempt to initiate robust injury reporting systems in college athletics.

Injury reports are frequently updated. The NFL, for example, requires team to release three types of injury reports each week during the season: practice report (which reports practice participation), game status report (which provides “an accurate description of a player’s availability for the club’s next game”), and in-game injury report (which provides “in-game injury information”).⁶⁴ In those reports, players may be designated as “questionable,” “doubtful,” or “out.”⁶⁵ The NFL penalizes teams that violate these rules.⁶⁶

As noted above, in some leagues, periodic injury reports must be specific—including not only the specific body part but also the type of the injury.⁶⁷ In some instances, however, sports leagues use residual designations, such as “personal reasons.” This designation may refer to a number of situations, such as a family member’s sickness or the birth of a child.⁶⁸ Similarly, there is some indication that the NWSL uses an

62. See, e.g., John Holden, *Why Are There No NCAA Injury Reports in the Age of Legal Sports Betting?*, LEGAL SPORTS REP. (Mar. 27, 2024), <https://www.legalsportsreport.com/31209/ncaa-injury-reports-legal-sports-betting/> [https://web.archive.org/web/20260119051355/https://www.legalsportsreport.com/31209/ncaa-injury-reports-legal-sports-betting/?__cf_chl_rt_tk=pgwBCry6.EPFFIAq.7uzqX5VzGG7JcPcCaayCz8cPm0-1768799635-1.0.1.1-YzWWMGJkyaVxys6G7NhCr0Sv1pZ03VNWbtq2cz0LmgQ] (arguing that the NCAA should take “steps to protect against a scandal by doing little things like releasing NCAA injury reports”).

63. *Johnson v. Nat’l Collegiate Athletic Ass’n*, 108 F.4th 163, 182 (3d Cir. 2024) (holding that “college athletes cannot be barred as a matter of law from asserting FLSA claims simply by virtue of a ‘revered tradition of amateurism’ in D-I athletics”); Marc Edelman, Michael A. McCann & John Holden, *The Collegiate Employee-Athlete*, 2024 U. ILL. L. REV. 1, 13 (“Aspects of the college sports industry today have truly come to resemble their so-called ‘professional’ counterparts.”).

64. Dan Treacy, *NFL Injury Report Rules, Explained: How It Works, Penalties for Violations and More to Know in 2024*, SPORTING NEWS (Sept. 10, 2024), <https://www.sportingnews.com/us/nfl/news/nfl-injury-report-rules-penalties-violations-2024/05ab0439361a73dd047fec2f> [<https://web.archive.org/web/20260104203303/https://www.sportingnews.com/us/nfl/news/nfl-injury-report-rules-penalties-violations-2024/05ab0439361a73dd047fec2f>].

65. *Id.*

66. 2017 PERSONNEL (INJURY) REPORT POLICY, *supra* note 5 (“A violation of the policy may result in Commissioner discipline, which may include a fine on the involved club, fines or suspensions of involved individuals.”); *NFL Fines Falcons, HC Arthur Smith for Violating League’s Injury Report Policy in Week Seven*, NFL (Dec. 22, 2023), <https://www.nfl.com/news/nfl-fines-falcons-hc-arthur-smith-for-violating-league-s-injury-report-policy-in> [<https://web.archive.org/web/20260104203439/https://www.nfl.com/news/nfl-fines-falcons-hc-arthur-smith-for-violating-league-s-injury-report-policy-in>].

67. See references and accompanying text, *supra* note 5.

68. *Player Participation Policy*, NBA, at 4 (Sep. 13, 2023), <https://pr.nba.com/wp-content/uploads/sites/46/2023/09/NBA-Player-Participation-Policy.pdf> [<https://web.archive.org/web/20250625080648/https://pr.nba.com/wp-content/uploads/sites/46/2023/09/NBA-Player-Participation-Policy.pdf>].

"excused absence" classification to report the absence of players who wish not to disclose early-stage pregnancies.⁶⁹

B. THE LEGAL STATUS OF INJURY REPORTS

Like other people, most athletes, too, would like to keep their health information—either physical or mental health—private.⁷⁰ For example, in 2016, NFL player Jason Pierre-Paul sued ESPN and reporter Adam Schefter after Schefter had posted on social media an image showing Pierre-Paul's medical charts in connection with a firework accident in which Pierre-Paul was involved.⁷¹ The medical records revealed that Pierre-Paul's finger had been amputated.⁷² One of the lawsuit's causes of action was the tort of invasion of privacy.⁷³ The parties in that case reached a settlement.⁷⁴

Viewed from another perspective, sometimes athletes try to avoid exposure of their health status to maintain competitive advantage. For example, NBA player LeBron James famously played three games in the 2018 NBA Finals against the Golden State Warriors with a severe bone contusion in his right hand without disclosing the injury. James's plan worked—the Warriors' players didn't know he was injured⁷⁵—but his team lost the finals. Similarly, American sprinter Noah Lyles did not disclose his COVID-19 diagnosis before running the 200m race in the 2024 Olympic Games.⁷⁶ Only after Lyles had completed the race—in which he finished third—he revealed that a few

69. *United States Star Mallory Swanson Expecting Her First Child*, ESPN (May 7, 2025), https://www.espn.com/soccer/story/_/id/45044299/united-states-star-mallory-swanson-expecting-first-child

[https://web.archive.org/web/20260104204711/https://www.espn.com/soccer/story/_/id/45044299/united-states-star-mallory-swanson-expecting-first-child]; Theo Lloyd-Hughes, *NWSL Matchday Five: How to Watch, Injury Updates*, SPORTS ILLUSTRATED (Apr. 17, 2025), <https://www.si.com/soccer/nwsl-matchday-5-how-to-watch-injury-updates>

[<https://web.archive.org/web/20260104204745/https://www.si.com/soccer/nwsl-matchday-5-how-to-watch-injury-updates>]. In England, where leagues do not disclose official injury reports, one team used a player's COVID-19 diagnosis to explain why the player had not been participating in games during the first few months of her pregnancy. Madeley, *supra* note 36.

70. See, e.g., Christopher R. Deubert et al., *Protecting and Promoting the Health of NFL Players: Legal and Ethical Analysis and Recommendations*, 7 HARV. J. SPORTS & ENT. L. 1, 377 (2016) (collecting evidence from public sources and interviews).

71. For the Florida federal district court's decision denying defendants' motion to dismiss, see *Pierre-Paul v. ESPN Inc.*, No. 16-21156-Civ-COOKE/TORRES, 2016 WL 4530884 (S.D. Fla. Aug. 29, 2016).

72. Deubert et al., *supra* note 70, at 377.

73. *Pierre-Paul*, 2016 WL 4530884, at *1.

74. Scott Skinner-Thompson, *Privacy's Double Standards*, 93 WASH. L. REV. 2051, 2077 n.129 (2018).

75. Josh Schrock, *Warriors Had No Idea LeBron Had Injured Hand in 2018 Finals*, NBC SPORTS (Oct. 2, 2020), <https://www.nbcsportsbayarea.com/nba/golden-state-warriors/warriors-had-no-idea-lebron-had-injured-hand-in-2018-finals/1123195/> [<https://perma.cc/LX76-2L34?type=image>].

76. Coley Harvey, *Noah Lyles Wins 200m Bronze; COVID Diagnosis Revealed After Race*, ESPN (Aug. 8, 2024), https://www.espn.com/olympics/story/_/id/40780740/noah-lyles-wins-200m-bronze-covid-diagnosis-revealed-race

[https://web.archive.org/web/20260104205748/https://www.espn.com/olympics/story/_/id/40780740/noah-lyles-wins-200m-bronze-covid-diagnosis-revealed-race].

days earlier he tested positive for COVID-19. Lyles further noted that he had tried to hide his condition in part because he did not want his competitors to have an “edge.”⁷⁷

Although athletes have a privacy interest in their health information, and despite the fact that several laws generally prevent the disclosure of private health information, as a general matter, U.S. sports leagues are not legally barred from employing injury reporting systems. The reason has to do with two characteristics of U.S. sports leagues: (1) in team sports, athletes are employees of their respective teams;⁷⁸ and (2) in most U.S. professional sports leagues, including the NBA and WNBA, injury reporting systems are enshrined in the leagues’ Collective Bargaining Agreement (“CBA”) and the athletes’ individual contracts. For example, the NBA’s CBA stipulates that “[e]ach Team may make public medical information relating to the players in its employ, provided that such information relates solely to the reasons why any such player has not been or is not rendering services as a player.”⁷⁹ The WNBA’s CBA includes identical language.⁸⁰ Athletes are also “often required to waive privacy rights regarding health status” as part of their contractual relationships with their respective teams.⁸¹

Thus, the disclosure of information about athletes’ injuries is not prohibited under the Health Insurance Portability and Accountability Act (“HIPAA”) because the HIPAA’s privacy rule “excludes from protected health information employment records that a covered entity maintains in its capacity as an employer.”⁸² Specifically, in a Final Rule issued in 2002 by the Department of Health and Human Services, the Department noted that “nothing in this Rule prevents an employer, such as a professional sports team, from making an employee’s agreement to disclose health records a condition of employment.”⁸³

The confidentiality provisions of the Americans with Disabilities Act (“ADA”) raise more complicated questions vis-à-vis injury reports. The ADA allows employers to

77. *Id.*

78. Jessica L. Roberts & Brittainie Zinsmeyer, *Fit to Play in the NBA? Reconciling the NBA Collective Bargaining Agreement with the Americans with Disabilities Act*, 166 U. PA. L. REV. ONLINE 149, 154 (2017).

79. NBA Collective Bargaining Agreement, art. XXII, § 4(d) (2023).

80. WNBA Collective Bargaining Agreement, art. XX, § 3 (2020).

81. Maureen A. Weston, *The Anxious Athlete: Mental Health and Sports’ Duty and Advantage to Protect*, 13 HARV. J. SPORTS & ENT. L. 1, 41 (2022).

82. Summary of the HIPAA Privacy Rule, U.S. DEP’T. HEALTH & HUM. SERVS., <https://www.hhs.gov/hipaa/for-professionals/privacy/laws-regulations/index.html> [<https://web.archive.org/web/20260111231941/https://www.hhs.gov/hipaa/for-professionals/privacy/laws-regulations/index.html>]; Stacey A. Tovino, *Artificial Intelligence and the HIPAA Privacy Rule: A Primer*, 24 HOU. J. HEALTH L. & POL’Y 77, 108 (2025) (“Even when health information is clearly individually identifiable, the HIPAA Privacy Rule does not protect such information . . . when the information meets the definition of . . . an employment record held by a covered entity in its role as an employer.”).

83. Standards for Privacy of Individually Identifiable Health Information, 67 Fed. Reg. 53182, 53193 (Aug. 14, 2002). For a detailed analysis of this rule, see Barbara Osborne, *Legal and Ethical Implications of Athletes’ Biometric Data Collection in Professional Sport*, 28 MARQ. SPORTS L. REV. 37, 52–53 (2017) (“Operationally, the effect of the guidance is to affirm teams’ power to compel players to disclose health information (waive HIPAA privacy) and subsume the information into the employment record of each player. Once considered part of the employment record, the contents of the record are not viewed as protected health information.”).

conduct medical examinations under certain circumstances, but employers are generally required to treat the information obtained from these examinations as “a confidential medical record.”⁸⁴ On the basis of this provision, one court has suggested, in dicta, that the NHL’s injury reporting system may violate the ADA under some interpretations.⁸⁵ Other courts, however, held that disclosure of information regarding an employee’s health may be allowed under the ADA as long as the information was voluntarily shared by the employee (not pursuant to an authorized medical examination by the employer).⁸⁶ Scholars, too, have contended that information that is obtained voluntarily is not likely to be subject to the ADA’s privacy-related provisions, as well as other privacy-related statutes.⁸⁷

Conversely, sports organizations do not have a legal duty to publicly disclose information about athletes’ injuries. This is, at least, what the Court of Appeals for the Ninth Circuit determined in a 2019 case involving a 2015 boxing fight between Emmanuel “Manny” Pacquiao and Floyd Mayweather, in which Mayweather won.⁸⁸ After the fight, Pacquiao stated that he had experienced a shoulder injury a few weeks prior to the event. The plaintiffs in that case were boxing fans who alleged that they “would not have purchased tickets had they known of Pacquiao’s injury.”⁸⁹ The district court dismissed the putative class-action, and the Ninth Circuit affirmed. Holding that the plaintiffs “suffered no legally cognizable injury,” the Ninth Circuit stated that “[t]aken to its logical extreme, [p]laintiffs’ theory would require all professional athletes to affirmatively disclose *any* injury—no matter how minor—or risk a slew of lawsuits from disappointed fans.”⁹⁰ The Ninth Circuit found that theory to be unworkable and incompatible with “the nature of competitive sports.”⁹¹

Lastly, although there is no direct case law on point, it appears that bettors cannot sue sports teams for failing to comply with leagues’ injury reporting policies—in situations where such policies are already in place.⁹² Nevertheless, commentators and

84. 42 U.S.C. § 12112(d)(3)–(4).

85. *In re Nat'l Hockey League Players' Concussion Inj. Litig.*, 120 F. Supp. 3d 942, 951 (D. Minn. 2015).

86. *Cash v. Smith*, 231 F.3d 1301, 1307 (11th Cir. 2000); *E.E.O.C. v. C.R. England, Inc.*, 644 F.3d 1028, 1047 (10th Cir. 2011) (holding that “if an employer discloses medical information that was voluntarily offered by an employee—outside of the context of an authorized employment-related medical examination or inquiry—then the employer is not subject to liability under” the ADA’s confidentiality provision).

87. *Sánchez Abril & Olazábal*, *supra* note 19, at 1573 (noting that voluntary disclosure of health information by corporate executives “would not be subject to the ADA’s confidentiality requirement”); cf. Andrew K. Glenn, Note, *Disclosure of Executive Illnesses Under Federal Securities Law and the Americans with Disabilities Act of 1990: Hobson’s Choice or Business Necessity?*, 16 *CARDOZO L. REV.* 537, 578 (1994) (noting that the “ADA does not explicitly preclude or permit an employee to waive rights of confidentiality for medical information”).

88. *In re Pacquiao-Mayweather Boxing Match Pay-Per-View Litig.*, 942 F.3d 1160 (9th Cir. 2019).

89. *Id.* at 1164.

90. *Id.* at 1171.

91. *Id.*

92. *Mayer v. Belichick*, 605 F.3d 223, 230 (3d Cir. 2010) (holding that an NFL season ticket holder did not have “a legally cognizable right, interest, or injury” in connection with a violation of the leagues’ internal regulations by one of the teams); *id.* at 237 (“At least in this specific context, it is not the role of judges and juries to be second-guessing the decision taken by a professional sports league purportedly enforcing its *own* rules.”); *Oliver v. Houston Astros, LLC*, No. 2:20-cv-00283-APG-VCF, 2020 WL 1430382, at *3 (D. Nev.

disgruntled bettors occasionally entertain the idea of filing class actions against teams and leagues when they suspect that a certain injury had not been properly disclosed.⁹³

The upshot is that injury reports are regulated by the leagues' internal policies and a web of contractual relationships involving the athletes themselves. The content and structure of injury reports are determined by the leagues. Violations of injury reporting policies are also investigated and addressed by the leagues, which may result in internal disciplinary proceedings.⁹⁴ As long as no criminal activity is suspected, the U.S. federal government and the states generally play no role in any of these processes.

To be sure, there is some state regulation in adjacent areas. Some states, for example, impose criminal liability on gamblers who place a wager after "unlawfully" gaining access to information about the outcome of the wager.⁹⁵ At least in theory, this may involve nonpublic information about an athlete's health. Similarly, there are number of federal statutes that can be used to prosecute gamblers for betting manipulations that involve the use of nonpublic information about an athlete's health. For example, as noted above, in October 2025, several people were indicted for allegedly placing bets on the basis of nonpublic information about NBA players' injuries—information that had not been reported in the league's injury reports.⁹⁶ But these kinds of situations may be related to injury reports only indirectly; the actual injury reporting systems have so far not been subjected to external regulation.

Mar. 23, 2020), *aff'd*, No. 2:20-cv-00283-APG-VCF, 2020 WL 2128656 (D. Nev. May 5, 2020) ("The Courts have repeatedly refused to allow judges to become replay officials for disappointed fans.")

93. Jackson Walker, *Dave Portnoy Says He's Suing Bengals and NFL Over Burrow Injury: "Refund All Bets!"*, CBS (Nov. 17, 2023), <https://cbsaustin.com/news/nation-world/dave-portnoy-suing-cincinnati-bengals-and-nfl-over-burrow-injury-refund-all-bets-national-football-league-sports-betting-joe-burrow-baltimore-ravens-thursday-night-football>

[<https://web.archive.org/web/20260113002053/https://cbsaustin.com/news/nation-world/dave-portnoy-suing-cincinnati-bengals-and-nfl-over-burrow-injury-refund-all-bets-national-football-league-sports-betting-joe-burrow-baltimore-ravens-thursday-night-football>]; Mike Florio, *NFL Doesn't Directly Comment on Recent Injury-Report Oddities*, NBC SPORTS (Nov. 14, 2024), <https://www.nbcsports.com/nfl/profootballtalk/rumor-mill/news/nfl-doesnt-directly-comment-on-recent-injury-report-oddities>

[<https://web.archive.org/web/20260113003553/https://www.nbcsports.com/nfl/profootballtalk/rumor-mill/news/nfl-doesnt-directly-comment-on-recent-injury-report-oddities>].

94. See *supra* note 66 and accompanying text.

95. W. VA. CODE ANN. § 29-22D-21(b)(4).

96. See *supra* notes 27–31 and accompanying text; see also Mike Vorkunov, *Jontay Porter Pleads Guilty to Conspiracy to Commit Wire Fraud, Likely Faces Prison Sentence*, THE ATHLETIC (July 10, 2024), <https://www.nytimes.com/athletic/5629647/2024/07/10/jontay-porter-pleads-guilty-betting-scandal/> [<https://web.archive.org/web/20260113004150/https://www.nytimes.com/athletic/5629647/2024/07/10/jontay-porter-pleads-guilty-betting-scandal/>] (reporting that NBA player Jontay Porter pleaded guilty to a conspiracy to commit wire fraud after investigators had found that Porter pretended to be affected by injuries as part of a scheme with other sports gamblers).

C. THE LACK OF A MENTAL HEALTH DESIGNATION

Mental health issues among professional athletes, once a taboo topic, have become a much-discussed subject in both media and scholarship.⁹⁷ Though sports league officials have recognized the fact that many athletes experience mental health issues in recent years,⁹⁸ the leagues themselves do not use a specific reporting designation for mental health in their injury reports. Thus, as noted above, those leagues primarily use the "personal reasons" designation in situations where athletes miss games or practices for mental health reasons.⁹⁹

In the NFL, the "personal matter" designation is a subset of a broader "Not Injury Related" designation.¹⁰⁰ The NFL's 2017 Injury Report Policy, the most recent injury report policy that is publicly available, defines the "Not Injury Related" category as covering "situations in which a player is withheld from his normal repetitions for reasons other than injury" such as "team discipline, jury duty, illness in family, [and] personal matter."¹⁰¹ The policy makes clear that the use of the "Not Injury Related" designation "is prohibited if the player in question has an injury that is otherwise reportable under the policy."¹⁰² The policy does not define "personal matter." Nor does it make any reference to mental health as a reason for missed practices or games.

To better understand the use of the "Not Injury Related" category, we conducted an original study analyzing publicly available data retrieved from the NFL official website.¹⁰³ For each season, the NFL website includes week-by-week injury reports.¹⁰⁴ We counted and analyzed all entries that include "Not injury related" over a fifteen-season period, from 2010 to 2024.¹⁰⁵

Although the NFL has required teams to provide some more specific information under the "Not Injury Related" since as early as 2016,¹⁰⁶ the league started to provide such information on its website only beginning the 2021 season (e.g., "Not Injury Related—Personal Matter"). Before that season, the designation used was simply "Not

97. Weston, *supra* note 81, at 6–8.

98. See, e.g., Joe Vardon, *Why the NBA Got Serious About Mental Health: "We Believe in It, But We Also Saw an Increasing Need for It,"* THE ATHLETIC (Apr. 18, 2023), <https://www.nytimes.com/athletic/4384992/2023/04/18/nba-mental-health/> [<https://web.archive.org/web/20260113004657/https://www.nytimes.com/athletic/4384992/2023/04/18/nba-mental-health/>] (describing recent actions taken by the NBA and NFL to promote mental health among athletes).

99. See references and accompanying text *supra* note 4.

100. 2017 PERSONNEL (INJURY) REPORT POLICY, *supra* note 5.

101. *Id.*

102. *Id.*

103. See Appendix A. Authors obtain a copy of full data analysis.

104. See *NFL Injury Report*, *supra* note 33.

105. See Appendix A. The data includes entries where more than one reason was listed (e.g., "Shoulder, Not injury related—personal matter").

106. NFL, 2016 PERSONNEL (INJURY) REPORT POLICY, <https://operations.nfl.com/media/2235/06-07-16-2016-injury-report-policy.pdf> [<https://web.archive.org/web/20260113013225/https://operations.nfl.com/media/2235/06-07-16-2016-injury-report-policy.pdf>].

Injury Related,” with no additional specificity. Thus, our analysis of the “personal matter” designation is limited to the 2021–2024 period.¹⁰⁷ Based on our original analysis of data published by the NFL, in each of the 2021–2024 seasons, the term “Not injury related—personal matter” appeared at least fourteen times in NFL teams’ injury reports, as Table I below demonstrates. In the most recent season analyzed (2024), that designation appeared thirty-seven times.

It is impossible to know how many of those entries were used to report absences for mental health reasons. However, our analysis allows us to point to other designations used by NFL teams under the “Not Injury Related” category, which may suggest that these situations are *not* covered under the “personal matter” designation: “resting player,” “returning from suspension,” “travel,” “coach decision,” and “discipline.”

Our analysis also reveals some degree of variation and inconsistency in the ways teams report players’ absences under the “Not Injury Related” category. For example, in 2015, there were 189 entries reporting “Not Injury Related” absences, whereas in 2017, there were only seven such entries. Moreover, during week 6 of the 2024 season, one player’s absence was reported as “Not Injury Related—Other,” whereas another player’s absence was reported as “Not Injury Reported—Personal Matter,” raising the question about the differences between these two vague designations.

These variations may suggest that teams could, in theory, refer to mental health under the “Not Injury Related” rubric. And yet, based on our analysis, over the last fifteen seasons, there has been no reference to mental health by NFL teams under the “Not Injury Related” category.

Season	Number of “Personal Reasons” Entries ¹⁰⁸	Number of Distinct Players Reporting Personal Matters
2024	37	29
2023	23	20
2022	14	12
2021	54 ¹⁰⁹	33

107. See Table I below. Note that the data reported in Table I refers to all parts of the season, including the eighteen weeks and the postseason stages. By contrast, the data reported in Appendix A is limited to the first seventeen weeks. The reason for this difference lies in the fact that the NFL extended the regular season from seventeen to eighteen weeks in 2021. Dan Graziano, *NFL Moves to Seventeen-Game Regular Season in 2021: What It Means for Teams, Players, Revenue and Fans*, ESPN (Mar. 30, 2021), https://www.espn.com/nfl/story/_/id/31159686/nfl-moves-17-game-regular-season-2021-means-teams-players-revenue-fans

[https://web.archive.org/web/20260113010150/https://www.espn.com/nfl/story/_/id/31159686/nfl-moves-17-game-regular-season-2021-means-teams-players-revenue-fans] (reporting the move to an eighteen-week season that includes seventeen regular season games for each team). Thus, for consistency, when gathering data for the 2010–2024 period, we gathered data only for seventeen weeks.

108. Based on data from the NFL official injuries website, *NFL Injury Report*, *supra* note 33.

109. The list for 2021 includes seventeen entries involving NFL player Deshaun Watson, who missed the entire 2021 season. See Ben Pickman, *Report: Texans Do Not Plan to Play Deshaun Watson in 2021*

The use of the “personal reasons” designation to report mental health issues raises the question of why leagues do not use another reporting category—“rest”—that may serve similar functions. The answer can be found in a Player Rest Policy—a policy that the NBA has instituted since 2017.¹¹⁰ That policy restricts teams from allowing players to miss high-profile, nationally televised games, or away games to rest in the absence of a designated injury.¹¹¹ This restriction was made increasingly strict in the 2023–2024 season specifically targeting “star players.”¹¹² These rules seem to disincentivize star players from taking rest time in the absence of any injury, lest their teams be fined.¹¹³ Put differently, the Player Rest Policy prevents players from taking “rest” days solely for mental health issues.¹¹⁴

A number of athletes and other stakeholders have expressed discomfort over the choice not to use a “mental health” designation in sports leagues’ injury reporting. In 2019, WNBA player Liz Cambage discussed her experiences with depression in a personal column for *The Players’ Tribune*, urging stakeholders to reckon with the intersection of mental health issues and competitive sports.¹¹⁵ Describing how she missed a number of games to focus on her mental health, Cambage has noted that the official designation explaining why she did not play—“Rest”¹¹⁶—did not reflect the “truth.”¹¹⁷ Instead, Cambage noted, the reporting should have said: “[Did Not Play] Mental Health.”¹¹⁸

In 2022, reporter Shams Charania broke the news that the NBA and the NBA Players Association (“NBPA”) had been negotiating the addition of a new “mental health

Season, SPORTS ILLUSTRATED (Sep. 12, 2021), <https://www.si.com/nfl/2021/09/12/deshaun-watson-texans-not-planning-to-play> [<https://web.archive.org/web/20260113010239/https://www.si.com/nfl/2021/09/12/deshaun-watson-texans-not-planning-to-play>].

110. Bobby Marks, *How the NBA’s New Rules on Resting Stars Will Work*, ESPN (Oct. 10, 2023), https://www.espn.com/nba/story/_/id/38386013/how-nba-new-rules-resting-stars-work [https://web.archive.org/web/20260113010900/https://www.espn.com/nba/story/_/id/38386013/how-nba-new-rules-resting-stars-work].

111. *Id.*

112. *Player Participation Policy*, *supra* note 68.

113. *Id.*

114. *Cf. NBA Injury Report*, *supra* note 5 (referring to potential instance of a *healthy* player resting).

115. Liz Cambage, *DNP-Mental Health*, PLAYERS’ TRIB. (Aug. 11, 2019), <https://www.theplayertribune.com/articles/liz-cambage-mental-health> [<https://web.archive.org/web/20260113010825/https://www.theplayertribune.com/articles/liz-cambage-mental-health>].

116. Note that at least when it comes to the NBA, the “rest” category can no longer be used to report mental health issues, as noted above. *See supra* notes 110–14 and accompanying text.

117. Cambage, *supra* note 115.

118. *Id.*

designation” to the league’s injury reporting framework.¹¹⁹ Charania called this an “unprecedented move.”¹²⁰

One sports reporter followed up, dedicating a news article to the possibility that the official injury report would include such designation.¹²¹ Referring to the move as a “landmark step,” that article included quotes from several players and coaches, as well as from William Parham, the NBPA Director of Mental Health and Wellness Program.¹²² According to the article, one motivation behind this initiative was to afford athletes time off to “rest, recover, and decompress.”¹²³ But taking time off can also be done under the “personal reasons” category, as the above examples demonstrate, so this cannot fully explain why adding such a designation is important. (In fact, as we note below, incorporating a specific mental health designation might discourage some athletes from taking time off because they may want to avoid the stigma associated with mental health issues.) On the other hand, the news article implicitly suggested that athletes may have privacy interests in their mental health, interests that may counsel against referring explicitly to “mental health” in official injury reports.¹²⁴

Beyond these suggested reasons to include a mental health designation in injury reports, however, the reporter did not dive into the arguments for and against the addition of a new mental-health designation. Moreover, the article also did not mention which reporting designation was used by teams to report athletes missing games for mental health reasons. (As noted above, that designation is often “personal reasons.”)

In any event, to the best of our knowledge, the NBA has never adopted the initiative to add a mental health designation to the league’s injury reports. Specifically, the most recent Collective Bargaining Agreement between the NBA and the NBPA, signed in July 2023, is silent on the matter.¹²⁵ Likewise, other sports leagues have not added a “mental health” designation to their injury reporting systems either.¹²⁶

119. Shams Charania, *Where NBA CBA Talks Stand, Plus New Issues on Players Association Agenda*, THE ATHLETIC (Sep. 19, 2022), <https://www.nytimes.com/athletic/3607549/2022/09/19/shams-nba-cba-negotiations/?source=rss> [https://web.archive.org/web/20260113010957/https://www.nytimes.com/athletic/3607549/2022/09/19/shams-nba-cba-negotiations/?source=rss].

120. *Id.*

121. Ron Kroichick, *Mental Health on Injury Report? NBA’s Awakening Could Spark Unprecedented Move*, S.F. CHRON. (Nov. 26, 2022), <https://www.sfchronicle.com/sports/warriors/article/mental-health-nba-injury-report-17607663.php> [https://web.archive.org/web/20260113011636/https://www.sfchronicle.com/sports/warriors/article/mental-health-nba-injury-report-17607663.php].

122. *Id.*

123. *Id.*

124. *Id.* (“[A]re NBA players really ready to embrace a ‘mental health’ category on the injury report, right there alongside ‘sprained ankle’ and ‘wrist soreness?’); *see also id.* (“[A]dding a new designation on the injury report seems like a big step, even with everything that has happened in the past five years.”).

125. NBA Collective Bargaining Agreement, *supra* note 79.

126. We are aware of at least three instances in which Major League Baseball (MLB) teams used a mental-health designation, but those disclosures were part of the MLB Injured List, which serves a slightly different purpose than injury reports. Matt Geagan, *Boston Red Sox Put Pitcher Chris Martin on Injured List with Anxiety*, CBS NEWS (June 5, 2024), <https://www.cbsnews.com/boston/news/chris-martin->

In sum, most U.S. sports leagues systematically disclose information about athletes' injuries. The leagues obtain athletes' consent to such disclosures through both collective and personal agreements, which effectively shield the leagues from liability for disclosing health information. Those injury reports, which aim to protect the competition's integrity by injecting transparency into sports betting markets, focus on physical injuries. At the same time, the reports and the official policies governing them recognize a wide array of situations that may result in a player's absence for reasons not related to physical injury: team discipline, jury duty, illness in family, and coach decision, among others. And yet, despite the wide recognition that many professional athletes experience mental health issues, athletes' absences for mental health issues have not been reported as such, but rather by using a non-specific designation: "personal reasons." If one were to learn about sports only by examining injury reports, one could easily reach the conclusion that professional athletes are immune to mental health issues, which could not be further from the truth.

II. THREE MISGUIDED JUSTIFICATIONS

The question remains: Why do injury reporting systems lack an option to report an athlete's absence due to mental health issues while requiring disclosure of physical injuries in great specificity? This Part discusses three possible justifications for sports leagues' different treatment of physical and mental health when it comes to injury reporting systems. After analyzing these possible justifications, we conclude that one of them relies on an erroneous factual foundation, and that the other two are, at least in part, normatively problematic.

Before delving into these potential justifications, however, it is important to note that our analysis focuses on the question of *how* to report taking time off to address mental health issues, as opposed to *whether* athletes should be allowed to take time off to address such issues. For the purpose of this Article, we assume that the answer to the latter question is yes. In fact, sports teams may be obligated under the ADA to provide their players with a leave of absence to accommodate athletes with psychosocial disability.¹²⁷ Moreover, it seems that, in practice, the leagues already allow athletes to

anxiety-injured-list-boston-red-sox-mlb/
[<https://web.archive.org/web/20260113011704/https://www.cbsnews.com/boston/news/chris-martin-anxiety-injured-list-boston-red-sox-mlb/>] (noting that two MLB players, Daniel Bard and Chris Martin, were placed on the Injured List due to "anxiety" in 2023 and 2024, respectively); Jason Beck, *Meadows Placed on IL as He Deals with Anxiety*, MLB (Apr. 8, 2023), <https://www.mlb.com/news/austin-meadows-placed-on-injured-list-with-anxiety>
[<https://web.archive.org/web/20260113011717/https://www.mlb.com/news/austin-meadows-placed-on-injured-list-with-anxiety>] (noting that MLB player Austin Meadows was placed on the Injured List "with what was classified as anxiety").

127. Covo, *supra* note 8, at 278–81 (applying the ADA to situations involving athletes with psychosocial impairments).

take a leave, at least in some cases.¹²⁸ Thus, the discussion that follows assumes that players are allowed to miss practices or games to address mental health issues. It focuses on a different question: How should teams report these absences?

A. FIRST MISGUIDED JUSTIFICATION: PHYSICAL HEALTH AND MENTAL HEALTH ARE EASILY DISTINGUISHABLE

A necessary explanation for the discrepancy in the way in which sports leagues treat physical injuries, on the one hand, and mental health issues, on the other, is that physical injuries and mental health issues are fully distinct categories. If these categories are distinct, the argument goes, it is much easier to justify why they deserve a different treatment in the context of reporting. There is a major problem with this explanation, however: Researchers have long pointed to the “indistinct line between the physical and the mental.”¹²⁹

Once thought to be separate, mental health and physical health are becoming increasingly recognized as inextricable in the medical field. Mind-body dualism, the belief that the mind and body are separate, was well characterized by philosopher René Descartes, who described the mind and body as distinct entities.¹³⁰ This is an idea that has permeated throughout history, but as our understanding of the pathophysiology of psychiatric disorders has advanced, there have been many demonstrations of how difficulties with mental health have a clear neurobiological basis. One such example is the finding that psychiatric conditions such as schizophrenia and bipolar disorder have been shown to be highly heritable.¹³¹

As mental illness has been reconceptualized, the way we approach the management of these conditions is changing. In the DSM-V, the core resource for the diagnosis and management of psychiatric conditions, there is an explicit acknowledgement of the inseparable nature of physical and mental health, despite the language often used to describe mental illness. As the DSM-V recognizes, “‘mental disorder’ and ‘another medical condition’ are merely terms of convenience and should not be taken to imply that there is any fundamental distinction between mental disorders and other medical conditions, that mental disorders are unrelated to physical or biological factors or

128. See, e.g., Thompson, *supra* note 2 (describing the Chicago Bulls’ reaction to player Andre Drummond missing a game to focus on his mental health); Abrams, *supra* note 9 (describing how player Tyrell Terry “took a leave of absence” from the NBA team Dallas Mavericks).

129. Elizabeth F. Emens, *The Sympathetic Discriminator: Mental Illness, Hedonic Costs, and the ADA*, 94 GEO. L.J. 399, 404, n.6 (2006) (relying on DSM-IV-TR).

130. RENÉ DESCARTES, MEDITATIONS ON FIRST PHILOSOPHY (1641), *reprinted in* 2 THE PHILOSOPHICAL WRITINGS OF DESCARTES 1 (J. Cottingham, R. Stoothoff & D. Murdoch eds., J. Cottingham trans., 1984); Matthias Forstmann, “*The Mind Is Willing, But the Flesh Is Weak*”: *The Effects of Mind-Body Dualism on Health Behavior*, 23 PSYCH. SCI. 1239, 1239 (2012).

131. Kevin S. O’Connell & Brandon J. Coombes, *Genetic Contributions to Bipolar Disorder: Current Status and Future Directions*, 51 PSYCH. MED. 2156, 2163 (2021); Simona Corina Trifu et al., *Genetics of Schizophrenia (Review)*, 20 EXPERIMENTAL & THERAPEUTIC MED., 3462, 3462 (2020).

processes, or that other medical conditions are unrelated to behavioral or psychosocial factors or processes."¹³²

Competitive sports provide a clear example of the collapse of the body-mind distinction.¹³³ One example of the inseparability of body and mind arises from the study of pain, which is experienced by many high-intensity athletes at one or more musculoskeletal sites.¹³⁴ In many cases, advanced imaging cannot identify specific structural causes of pain.¹³⁵ Observations such as this have challenged the assumption that even "simple" musculoskeletal pain has exclusively biological causes, suggesting instead that psychological and social contributions are also critical to understand pain. Collectively, this is known as the biopsychosocial model, which forms the contemporary medical understanding of pain.¹³⁶ In this model, diagnosis and treatment of pain mandates addressing psychiatric comorbidities, stress, behavioral patterns, and social determinants of health such as economic security, support networks, educational attainment, and access to resources. In the context of mental health, psychiatric conditions have been shown to mediate pain perception and intensity.¹³⁷ Early evidence into the reasons for this phenomenon suggests that there may be neurological, developmental and genetic mechanisms at play.¹³⁸ These insights have also translated into clinical practice, with antidepressant medications utilized for pain control in a variety of conditions.¹³⁹

132. AM. PSYCH. ASS'N, DIAGNOSTIC AND STAT. MANUAL OF MENTAL DISORDERS xxv (5th ed. 2013) [DSM-V].

133. Professional athletes have pointed to the myriad ways in which the mind and the body are interconnected. Skier Mikaela Shiffrin, for example, shared in a personal column: "I've always known the mind-body connection in skiing. Always appreciated that mental element of our sport." Mikaela Shiffrin, *My Battle with PTSD*, PLAYERS' TRIB. (May 30, 2025), <https://www.theplayerstribune.com/mikaela-shiffrin-skiing-ptsd-mental-health> [https://web.archive.org/web/20260113012216/https://www.theplayerstribune.com/mikaela-shiffrin-skiing-ptsd-mental-health]. Towards the end of the essay, Shiffrin noted: "I can tell that, beyond a shadow of a doubt . . . what I imagine doing in my mind, the technical movements, what I'm seeing, that message, it's coming through loud and clear to my entire body. It translates to what I'm actually doing. In lockstep. To perfection. That clarity, the mind-body connection, it's present to the greatest extent possible. It's just totally synched up. I feel it with every fiber of my being." *Id.*

134. See, e.g., Pall Jonasson et al., *Prevalence of Joint-Related Pain in the Extremities and Spine in Five Groups of Top Athletes*, 19 KNEE SURG. SPORTS TRAUMATOL. ARTHROSC. 1540, 1540 (2011) ("Pain in the cervical, thoracic and lumbar spine and larger joints is a common complaint among top athletes.").

135. Chris Maher et al., *Non-Specific Low Back Pain*, 380 LANCET 736 (2017).

136. Joan W.S. Vlaeyen & Geert Crombez, *Behavioral Conceptualization and Treatment of Chronic Pain*, 16 ANN. REV. CLIN. PSYCH. 187 (2020); Nebojsa Nick Knezevic, *Low Back Pain*, 398 LANCET 78 (2021); Bart N. Green et al., *A Scoping Review of Biopsychosocial Risk Factors and Co-morbidities for Common Spinal Disorders*, 13 PLOS ONE 1 (2018).

137. Anna Ehnvall et al., *Rejection Sensitivity and Pain in Bipolar versus Unipolar Depression*, 16 BIPOLAR DISORD. 190 (2014); Diane J. Kim et al., *Altered Physical Pain Processing in Different Psychiatric Conditions*, 133 NEUROSCI. & BIOBEHAV. REV. 104510 (2022).

138. Maxim B. Freidin et al., *Insight into the Genetic Architecture of Back Pain and Its Risk Factors from a Study of 509,000 Individuals*, 160 PAIN 1361 (2019).

139. Pinky Dharmshaktu et al., *Efficacy of Antidepressants as Analgesics: A Review*, 52 J. CLIN. PHARMACOL. 6 (2012).

A more specific example of the inseparability of body and mind in the sports context is the “Yips.” Defined as “a psycho-neuromuscular impediment interfering with the execution of fine-motor skills,”¹⁴⁰ this condition involves intermittent jerks or tremors, as well as involuntary twitching, spasms, or freezing.¹⁴¹ It is generally believed that the term “Yips” was coined in the 1960s among professional golfers who were forced into retirement by the condition.¹⁴² As no other objective abnormalities are found on neuromuscular examination,¹⁴³ the underlying pathophysiological basis of the Yips remains hotly debated. The condition has often been attributed to psychological factors such as anxiety.¹⁴⁴ However, a number of studies have found electrophysiological data to suggest the condition is a task-specific movement disorder, caused by abnormal contraction patterns of arm musculature.¹⁴⁵ Collectively, these studies have led to the Yips being understood as having psychological, performance, neurological, and physiological components, with ongoing need for further study.¹⁴⁶

Anecdotally, athletes who have experienced Yips-like symptoms described them as involving both physical and mental aspects. Take, for example, Simone Biles’s account of the condition that made her withdraw from the Tokyo Olympics. Citing the “twisties,” a condition known amongst gymnasts, Biles described the feeling of “[n]ot having an inch of control over your body.”¹⁴⁷ While other commentators have associated the “twisties” with mental health issues, Biles noted that she was “not sure how true” the idea that the “twisties” are triggered by stress is.¹⁴⁸ Based on this account, one could wonder: To which reporting category do the “twisties” belong, physical injury or mental health issues?

140. Naveed Saleh, *When Athletes Get “The Yips,”* PSYCH. TODAY (July 24, 2023), <https://www.psychologytoday.com/us/blog/the-red-light-district/202307/when-athletes-get-the-yips> [<https://perma.cc/XN7Q-6BGM>].

141. Samish Dhungana & Joseph Jankovic, *Yips and Other Movement Disorders in Golfers*, 28 MOV. DISORD. 576 (2013); Aynsley M. Smith et al., *The “Yips” in Golf: A Continuum Between a Focal Dystonia and Choking* 33 SPORTS MED. 13 (2003).

142. Larry Dorman, *Cause of the Yips Is Debated, but the Effect Isn’t*, N.Y. TIMES (June 11, 2011), <https://www.nytimes.com/2011/06/12/sports/golf/the-yips-bane-of-golfers-may-be-muscular.html> [<https://web.archive.org/web/20110614214258/https://www.nytimes.com/2011/06/12/sports/golf/the-yips-bane-of-golfers-may-be-muscular.html>].

143. Chen Hai et al., *Advances in Primary Writing Tremor*, 16 PARKINSONISM & REL. DISORD. 561 (2010).

144. Dhungana & Jankovic, *supra* note 141.

145. Charles H. Adler et al., *Abnormal Co-Contraction in Yips-Affected but Not Unaffected Golfers: Evidence for Focal Dystonia*, 64 NEUROLOGY 1813 (2005).

146. Patrick Clarke, David Sheffield & Sally Akehurst, *The Yips in Sport: A Systematic Review*, 8 INT’L REV. SPORT & EXERCISE PSYCH. 156 (2015); Koya Mine, Kenta Ono & Nobuhito Tanpo, *Effectiveness of Management for Yips in Sports: A Systematic Review*, 2 J. PHYS. THER. SPORTS MED. 17 (2018).

147. Alice Park, *Simone Biles Has the Twisties. What Are They, and Why Are They So Dangerous?*, TIME (July 30, 2021), <https://time.com/6085776/simone-biles-twisties-gymnastics/> [<https://web.archive.org/web/20260119220421/https://time.com/6085776/simone-biles-twisties-gymnastics/>].

148. Juliet Macur, *Simone Biles, Struggling with “The Twisties,” Says She Can’t “Tell Up from Down,”* N.Y. TIMES (Aug. 4, 2021), <https://www.nytimes.com/article/twisties-gymnastics.html> [<https://web.archive.org/web/20250930193600/https://www.nytimes.com/article/twisties-gymnastics.html>].

Moreover, so-called "physical" injuries and "mental health" issues are sometimes co-constitutive. Take, for example, chronic traumatic encephalopathy ("CTE"), the cumulative neuropsychological deficits linked to repeated concussions.¹⁴⁹ While CTE has gained mainstream attention for its high incidence among retired NFL players,¹⁵⁰ the effects of repeated concussions have been linked to cognitive impairments among active athletes as well, such as high school and collegiate football and soccer players.¹⁵¹

The exact mechanism causing CTE remains an active area of research, with evidence supporting a variety of putative neurodegenerative and neuroinflammatory processes.¹⁵² Nonetheless, contemporary expert consensus states that abnormal protein buildup in neurons and supporting cells in the cerebral cortex is a hallmark diagnostic criterion for the condition.¹⁵³ Because these regions of the brain regulate both physical processes and cognitive/behavioral functions, these diverse functions are inextricable at the cellular level of CTE.

To be sure, some scholars argue that it may be helpful to distinguish between "physical" and "mental" injury for policy-related reasons.¹⁵⁴ But such a distinction depends on purpose and context. Given that the boundaries are often blurry, the discrepancy between the leagues' treatment of physical and mental health raises questions. Specifically, the failure to reject dualism and acknowledge the heavy overlap between the physical and mental can contribute to poor health practices and a barrier to the treatment of mental health issues.¹⁵⁵ Similarly, as detailed below, the dualistic perspective may create the perception that psychiatric disorders are less pharmaceutically treatable than physical health disorders.

149. See Tracey Covassin et al., *Investigating Baseline Neurocognitive Performance Between Male and Female Athletes with a History of Multiple Concussion*, 81 J. NEUROL. NEUROSURG. & PSYCHIATRY 597 (2010); Thomas W. McAllister et al., *Cognitive Effects of One Season of Head Impacts in a Cohort of Collegiate Contact Sport Athletes*, 78 NEUROLOGY 1777 (2012).

150. See Everett J. Lehman et al., *Neurodegenerative Causes of Death Among Retired National Football League Players*, 79 NEUROLOGY 1970 (2012).

151. See Ann C. McKee et al., *Neuropathologic and Clinical Findings in Young Contact Sport Athletes Exposed to Repetitive Head Impacts*, 80 JAMA NEUROL. 1037 (2023); Erik J.T. Matser, *Neuropsychological Impairment in Amateur Soccer Players*, 282 JAMA 971 (1999).

152. See Laura Moretti et al., *Cognitive Decline in Older Adults with a History of Traumatic Brain Injury*, 11 LANCET NEUROL. 1103 (2012); Victoria E. Johnson, *Inflammation and White Matter Degeneration Persist for Years After a Single Traumatic Brain Injury*, 136 BRAIN 28 (2013).

153. See Ann C. McKee et al., *The First NINDS/NIBIB Consensus Meeting to Define Neuropathological Criteria for the Diagnosis of Chronic Traumatic Encephalopathy*, 131 ACTA NEUROPATHOL. 75 (2016).

154. See, e.g., Francis X. Shen, *Mind, Body, and the Criminal Law*, 97 MINN. L. REV. 2036, 2095 (2013) (arguing that even though neuroscience research suggests that many mental health conditions are in fact biologically-based impairments, "drawing this dualist line in the legal sand might well be good policy" in the context of criminal law); Philip Petrov, *The Physical-Emotional Distinction in Tort*, 37 CAN. J.L. & JURIS. 231, 231-32 (2024) (arguing that "tort's physical-emotional distinction is not a relic of mind-body dualism but a heuristic that judges, in their capacity as ordinary decision-makers, have used to structure and simplify the difficult but unavoidable task of drawing lines between harm that the judiciary should and should not recognize"). But see Dov Fox & Alex Stein, *Dualism and Doctrine*, 90 IND. L.J. 975, 979 (2015) (arguing that "dualism's pernicious influence should be uprooted by devising policies and rules that cast off its distorting metaphysics").

155. Forstmann, *supra* note 130.

In sum, any attempt to justify the different treatment of “physical” injuries and “mental health” issues in sports leagues’ injury reporting systems on the basis of an inherent and categorical distinction between “body” and “mind” is not persuasive.

B. SECOND MISGUIDED JUSTIFICATION: USING THE “PERSONAL REASONS” CATEGORY BENEFITS ALL ATHLETES BY PROTECTING THEIR PRIVACY

To say that something is personal is often to say that it is “private.” This rationale may be another way to justify sports leagues’ decision to refer to mental health issues as “personal reasons” in injury reporting systems. In other words, the decision not to use a “mental health” designation in injury reporting systems may reflect a deliberate attempt to protect athletes’ privacy. Such an approach is not unique. As Professor Jasmine Harris has detailed in a recent article, across legal fields, privacy is the prevailing norm when it comes to disability disclosure, particularly so-called “invisible” impairments.¹⁵⁶ In fact, as Harris has shown, courts sometimes impose tort liability on entities that disclose information about people’s disability.¹⁵⁷ In such cases, courts tend to treat disability as a “private fact” whose disclosure results in reputational damage.¹⁵⁸

From this perspective, there may be good policy-related reasons to distinguish between physical and mental health in injury reporting mechanisms. Indeed, in contemporary society, it is unfortunately true that mental health issues carry a significant stigma. Thus, creating a sense of ambiguity with respect to the reasons behind an athlete’s absence may help the athlete avoid the stigma associated with mental health issues.¹⁵⁹ To the very least, the argument goes, such a framework allows athletes to decide if, when, and how to disclose that they are dealing with mental health issues.¹⁶⁰

A number of recent events in which athletes opened up about their experiences with mental health demonstrate the harsh consequences of disclosing one’s mental health issues. Recall gymnast Simone Biles, who withdrew from a competition during the Tokyo Olympics. Biles, “the most decorated gymnast in history,”¹⁶¹ was subject to heavy criticism by some social media users, who accused her of “selfishness or fragility”¹⁶² and

156. See Jasmine E. Harris, *Taking Disability Public*, 169 U. PA. L. REV. 1681 (2021).

157. *Id.* at 1721–25.

158. *Id.* at 1722.

159. Katie Eyer, *Claiming Disability*, 101 B.U. L. REV. 547, 557 (2021).

160. *Id.* at 595.

161. Ashlee Buhler, *Simone Biles: Career Highlights*, NBC OLYMPICS (updated July 1, 2024), <https://www.nbcolympics.com/news/simone-biles-career-highlights#> [<https://web.archive.org/web/20260119221018/https://www.nbcolympics.com/news/simone-biles-career-highlights>].

162. Louise Radnofsky, *Simone Biles Explains Her Olympic Withdrawals on Social Media, Indicates She May Not Compete Again in Tokyo*, WALL ST. J. (July 30, 2021), <https://www.wsj.com/articles/simone-biles-olympics-tokyo-twisties-11627639363> [<https://web.archive.org/web/20260119222607/https://www.wsj.com/sports/olympics/simone-biles-olympics-tokyo-twisties-11627639363>].

referred to her as a “quitter.”¹⁶³ Based on these experiences, one could argue that sports leagues should not use a mental health designation in injury reporting systems.

But even after taking these considerations into account, there are still questions whether the status quo—whereby physical conditions are reported in specificity and mental health issues are not—can be fully justified. One reason is that, at least in some cases, a player’s mental health condition is not a “private fact.” Indeed, we know that in the context of professional sports, some people would actually want the public to know about their mental health experiences.

Andre Drummond’s case is illustrative: Drummond himself had posted information about his mental health issues on social media *before* the NBA issued the pertinent injury report, so it makes little sense to protect his privacy interest in this respect.¹⁶⁴ For another example, consider Liz Cambage’s personal account, in which she used the language commonly found in injury reports to share her experiences with mental health: “here’s your Liz Cambage injury update: she was day-to-day with anxiety and depression—and she still is.”¹⁶⁵ As Cambage made clear, her motivation behind writing that column was “to tell you the real truth of what’s been going on with [her].”¹⁶⁶

In her recent article about the relationship between (invisible) disability and privacy, Professor Harris criticizes a similar situation where an organization denied an affiliated individual the opportunity to “claim” their disability through the organization’s platform.¹⁶⁷ Harris described how, a decade ago, a U.S. high school administration cited privacy rights to impede the publication of a special issue of the school’s newspaper that included essays by students about their experiences with depression.¹⁶⁸ Barred from disclosing their mental health experiences in their own school newspaper, the students turned to *the New York Times*, which published their essay.¹⁶⁹ According to Harris, that story demonstrates how privacy “can be misdirected to force people to be in the closet about their disabilities.”¹⁷⁰

It may seem odd to speak about forced secrecy in the context of professional athletes, who can use their social media accounts or other platforms to disclose their mental health issues, as many athletes have done. In light of these alternative avenues for disclosure, the argument goes, the content of the official injury report becomes largely irrelevant. That argument, however, conflates institutional and individual

163. Juliet Macur, *As Biles Rests After Tokyo, Gymnastics Glimpses What Could Be*, N.Y. Times (Aug. 4, 2021), <https://www.nytimes.com/2021/08/04/sports/olympics/biles-tokyo-gymnastics-future.html> [https://web.archive.org/web/20210812062147/https://www.nytimes.com/2021/08/04/sports/olympics/biles-tokyo-gymnastics-future.html].

164. See references and accompanying text, *supra* notes 1–3.

165. Cambage, *supra* note 115.

166. *Id.*

167. Harris, *supra* note 156, at 1717–19.

168. *Id.*

169. Madeline Halpert & Eva Rosenfeld, *Depressed, But Not Ashamed*, N.Y. TIMES (May 21, 2014), <https://www.nytimes.com/2014/05/22/opinion/depressed-but-not-ashamed.html> [https://web.archive.org/web/20140524010308/https://www.nytimes.com/2014/05/22/opinion/depressed-but-not-ashamed.html].

170. Harris, *supra* note 156, at 1718.

responsibility with respect to publicity. As Professor Harris explains, “while coming out as a person with a disability has the potential for individual and, in the aggregate, group movement-building, this alone is insufficient to solve the structural problem of institutionalized ableism and neurotypicality that is so pervasive in society.”¹⁷¹ Thus, she concludes, “institutional actors must play” a remedial role in the context of publicity because of the collective value of publicity for identity formation.¹⁷²

There are other problems with a blanket policy that treats mental health issues as private information that should not be disclosed. As Professor Harris notes, treating mental health as a private fact sometimes runs counter to the goal of destigmatizing mental health.¹⁷³ The problem can be described as a tradeoff between the short-term benefits and long-term harms of a privacy framing. In the short term, the privacy framing protects individuals from the stigma associated with disclosure about mental health. In the long term, however, privacy may feed this very stigma by treating mental health as something that is not supposed to be discussed in public.

This concern is particularly relevant when it comes to professional athletes who are influential actors and can shift social attitudes around stigmatized conditions. As Professor Katie Eyer argues in a recent piece, when a critical mass of people claim the label of disability they become “potentially stereotype-disrupting exemplars.”¹⁷⁴ And this is especially so if the persons “claiming disability” are “those who have the most privilege,” such as “politicians and celebrities.”¹⁷⁵

From a different perspective, it is doubtful whether using the “personal reasons” designation can actually protect athletes’ privacy, especially when the norm is that physical injuries are disclosed in great detail. The concern is that the deviation from the norm and the use of a vague designation such as “personal reasons” may draw attention to the player who experiences mental health issues, giving rise to speculations as to the reasons behind the player’s absence.¹⁷⁶ Researchers have referred to these kinds of situations using the term the “Streisand effect,” whereby “attempts to censor,

171. *Id.* at 1739.

172. *Id.*

173. *Id.*

174. Eyer, *supra* note 159, at 581.

175. *Id.* at 595.

176. See, e.g., Sean Deveney, *WNBA Star Rickea Jackson Reacts to Pregnancy Rumors Amid Absence from Team*, ATHLON SPORTS (Jun. 2, 2025), <https://athlonsports.com/wnba/los-angeles-sparks/wnba-star-rickea-jackson-reacts-pregnancy-rumors-amid-absence-team> [<https://web.archive.org/web/20250606005503/https://athlonsports.com/wnba/los-angeles-sparks/wnba-star-rickea-jackson-reacts-pregnancy-rumors-amid-absence-team>] (noting the circulation of an “unfounded rumor” that WNBA player Rickea Jackson was pregnant after Jackson missed a game for “personal reasons”); *Warriors’ Green: Podcast Remarks on Knicks’ Towns “What I Heard,”* ESPN (Mar. 7, 2025), https://www.espn.com/nba/story/_/id/44145546/warriors-green-podcast-remarks-knicks-towns-heard [https://web.archive.org/web/20260119224829/https://www.espn.com/nba/story/_/id/44145546/warriors-green-podcast-remarks-knicks-towns-heard] (reporting a situation where the use of the “personal reasons” designation triggered unfounded speculation as to the reason behind an NBA’s player absence); cf. Madeley, *supra* note 36 (quoting a former communications chief at Premier League clubs as saying that in the case of a death in the family, “you wouldn’t advise the manager to say the player is out for ‘personal reasons’ because that leaves a void of information which people then fill with speculation”).

remove, or hide information only serves to amplify it more in the public's eye."¹⁷⁷ Of course, the problem here is not with reporting that an athlete will miss a game for undisclosed reasons. Rather, it is using the "personal reasons" designation as an exception to the norm whereby physical injuries are being disclosed in detail. It is this disparity that draws attention to the player whose reasons for absence are being kept private.¹⁷⁸

Moreover, given the stigma surrounding mental health, including mental health issues under the residual "personal reasons" designation (which includes other reasons for missing games or practices) may push athletes who *do not* experience mental health issues to disclose their personal reasons (such as the death of a close friend or relative) in order to distance themselves from any association with mental health issues. This situation involves what Professor David Pozen calls "privacy-privacy tradeoffs" in that the attempt to protect one athlete's privacy may indirectly undermine another athlete's privacy.¹⁷⁹

Lastly, treating mental health issues as private facts exacerbates a dearth of data about athletes' mental health.¹⁸⁰ Based on the injury reports, we can have data on how many athletes had lateral ankle sprains in the 2004–2005 basketball season,¹⁸¹ but we can't come even close to the number of athletes experiencing depression or severe anxiety. By treating mental health as "personal," the NBA and other leagues prevent the collection of accurate data about how many athletes have missed games due to mental health issues. Collecting data about the prevalence of mental health issues among athletes is important in its own right, but it is particularly crucial for informing sports leagues' decision-making regarding a variety of issues, ranging from questions such as whether to add more games to the regular season,¹⁸² whether to allow "prop" bets,¹⁸³ and whether to require athletes to attend post-game interviews.¹⁸⁴ Each of these

177. Mark Travers, *A Psychologist Explains the "Streisand Effect"—When Censorship Fails*, FORBES (Aug. 24, 2024), <https://www.forbes.com/sites/traversmark/2024/08/24/a-psychologist-explains-the-streisand-effect—when-censorship-fails/> [https://web.archive.org/web/20260119224932/https://www.forbes.com/sites/traversmark/2024/08/24/a-psychologist-explains-the-streisand-effect—when-censorship-fails/].

178. Cf. Salomé Viljoen, *A Relational Theory of Data Governance*, 131 YALE L.J. 573, 603 (2021) (describing "the significance of data's relationality" in the context of privacy and data governance).

179. David Pozen, *Privacy-Privacy Tradeoffs*, 83 U. CHI. L. REV. 221, 229 (2016) ("[A] policy may shift privacy burdens or benefits from one group in the population to another.").

180. Harris, *supra* note 156, at 1726.

181. Mark C. Drakos et al., *Injury in the National Basketball Association: A Seventeen-Year Overview*, 2 SPORTS HEALTH 284 (2010); Garrett S. Bullock et al., *Temporal Trends in Incidence of Time—Loss Injuries in Four Male Professional North American Sports Over Thirteen Seasons*, 11 SCI. REPS. 8278 (2021).

182. See, e.g., Katherine Terrell, NFLPA on Schedule: "No One Wants to Play an Eighteenth Game," ESPN (Feb. 5, 2025), https://www.espn.com/nfl/story/_/id/43706558/nflpa-schedule-wants-play-18th-game-no-one [https://web.archive.org/web/20260119225022/https://www.espn.com/nfl/story/_/id/43706558/nflpa-schedule-wants-play-18th-game-no-one] (reporting the NFL Players Association's opposition to a recent proposal to add an eighteenth game to the regular season).

183. McCann & Novy-Williams, *supra* note 48.

184. Weston, *supra* note 81, at 38–39 (describing "Naomi Osaka's request to modify press conference obligations due to mental health concerns.").

decisions may affect athletes' mental health and therefore should incorporate considerations that pertain to the prevalence of mental health issues among athletes. For example, a recent increase in the number of NBA players experiencing Achilles tendon injuries has led the league to convene a panel of experts that would examine the issue, including asking whether the NBA season is too long.¹⁸⁵ It is difficult to ask a similar question with respect to mental health, because there is no official data on this matter.

C. THIRD MISGUIDED JUSTIFICATION: UNLIKE PHYSICAL INJURIES, MENTAL HEALTH ISSUES ARE NOT SPORTS-RELATED

Another possible justification for the differences in the ways in which U.S. sports leagues treat physical and mental health in injury reports has to do with the distinction between individual and structural factors affecting one's health. Sports leagues might perceive physical injuries as resulting from the "game" (that is, injuries that are sports-related) while at the same time treating mental health issues as originating from the individual (that is, issues that are not sports-related). This justification, however, is also based on erroneous foundations and raises normative concerns.

The field of sport psychology, for example, has long operated on the assumption that psychological factors affect physical performance in the context of sports.¹⁸⁶ In fact, the central role of psychology in competitive sports has gained judicial recognition by the U.S. Supreme Court. In *PGA Tour, Inc. v. Martin*, the Court justified its decision to require a golf tournament to allow a disabled golfer to use a golf cart (instead of walking the golf course), in part, by pointing to the fact that the golfer would not be able to benefit from the stress-relieving potential of walking (and hence would not gain a significant competitive advantage over the other players from using the golf cart).¹⁸⁷ The Court further explained that, in professional golf, "fatigue from the game is primarily a psychological phenomenon in which stress and motivation are the key ingredients."¹⁸⁸ Thus, it would be a mistake to argue that mental health is not "part of the game" when it comes to professional sports.

Conversely, the ways in which the competition is structured and shaped may affect an athlete's mental health. Contemporary discussions about health move from focusing on personal responsibility for one's health to the "social, economic, and environmental

185. Tim Reynolds, *NBA Commissioner Adam Silver Says League Taking Closer Look at Achilles Tears*, NBA (June 27, 2025), <https://www.nba.com/news/nba-commissioner-adam-silver-league-researching-achilles-tears> [https://web.archive.org/web/20260105120437/https://www.nba.com/news/nba-commissioner-adam-silver-league-researching-achilles-tears].

186. Peter C. Terry, *Applied Sports Psychology: Beware the Sun, Icarus*, in IAAP HANDBOOK OF APPLIED PSYCHOLOGY 386, 386 (Paul R. Martin ed., 2011); Marc Lochbaum et al., *Sport Psychology and Performance Meta-Analyses: A Systematic Review of the Literature*, 17 PLOS ONE 1 (Feb. 16, 2022).

187. 532 U.S. 661, 687–88 (2001).

188. *Id.*

determinants" that affect "health behaviors and exposures."¹⁸⁹ In recent years, researchers and advocates have focused on these structural aspects of health, recognizing the role societal factors—such as access to housing or exposure to clean air—play in determining one's health and well-being. In the words of Professor Dayna Bowen Matthew, it is often a mistake to point only to an individual's "underlying biological comorbidities" or personal behavior to explain sickness or health complications; rather, the primary risk factors also include poor employment conditions, environmental toxins, and lack of access to affordable, nutritious food.¹⁹⁰ Social factors also play a role in shaping one's mental health. Indeed, a recent study notes that there is "compelling evidence that the risk of developing any mental health condition is inextricably linked to our life circumstances."¹⁹¹

Viewed from this perspective, professional athletes' mental health issues are not solely "personal." They are the result of an array of factors—many of which stem directly from the environment in which athletes compete: frequent air travel,¹⁹² physical injuries, and career uncertainty, among other factors. Indeed, in a recent law review article, Professor Maureen Weston listed nine distinct "sports-related factors" affecting the mental health of athletes, including discrimination and verbal abuse, as well as "media, public pressure and over-exposure."¹⁹³ Moreover, leading NBA players and coaches recently noted that sports betting—the very reason behind the existence of injury reporting systems—is itself a source of anxiety and pressure for athletes.¹⁹⁴ For example, many athletes have received threats and been subject to harassment and insults on social media and on the field by frustrated bettors who blame the players for their losing bets.¹⁹⁵ The NCAA has recently referred to this phenomenon as a "mental health nightmare."¹⁹⁶

189. Lindsay F. Wiley, *The Struggle for the Soul of Public Health*, 41 J. HEALTH POL., POL'Y & L. 1083, 1087 (2016).

190. DAYNA BOWEN MATTHEW, JUST HEALTH: TREATING STRUCTURAL RACISM TO HEAL AMERICA 18–21 (2022).

191. James B. Kirkbride et al., *The Social Determinants of Mental Health and Disorder: Evidence, Prevention and Recommendations*, 23 WORLD PSYCH. 58, 58 (2024).

192. See, e.g., Michael A. McCann, *Do You Believe He Can Fly? Royce White and Reasonable Accommodations Under the Americans with Disabilities Act for NBA Players with Anxiety Disorder and Fear of Flying*, 41 PEPP. L. REV. 397, 401–402 (2014) (analyzing whether the NBA is obligated to accommodate an athlete with a "severe fear of flying").

193. Weston, *supra* note 81, at 15–27.

194. David Aldridge, *New Scene at NBA Games: Fans Screaming at Players About Their Losing Bets*, THE ATHLETIC (Apr. 2, 2024), <https://theathletic.com/5381978/2024/04/02/nba-gambling-players-fans-interactions/?source=freeweeklyemail&campaign=602288&userId=4578927> [<https://web.archive.org/web/20250913004351/https://www.nytimes.com/athletic/5381978/2024/04/02/nba-gambling-players-fans-interactions/>].

195. *Id.*

196. Saquandra Heath, *Sports Betting Culture Negatively Impacts Mental Health; NCAA Works to Support Student-Athletes*, NCAA (May 17, 2024), <https://www.ncaa.org/news/2024/5/17/media-center-sports-betting-culture-negatively-impacts-mental-health-ncaa-works-to-support-student-athletes.aspx> [<https://web.archive.org/web/20260105124023/https://www.ncaa.org/news/2024/5/17/media-center-sports-betting-culture-negatively-impacts-mental-health-ncaa-works-to-support-student-athletes.aspx>].

Against this backdrop, one can argue that, by promoting and regulating competitions, sports leagues share some of the responsibility for the development of mental health issues—similar to the way that the state bears some of the responsibility to the development of illnesses and other conditions. The use of the “personal reasons” category, however, obscures this responsibility.

The idea that mental health issues are “personal” (as opposed to sports-related conditions) should also be examined against the long history of associating mental health issues with one’s own moral deficit or personality traits.¹⁹⁷ Indeed, in part because mental health issues are not as “visible” as some physical impairments, they are “more likely than physical disabilities to be viewed as bad behavior under a fancy name.”¹⁹⁸ Specifically, among the stereotypes about people with mental health issues are the assumptions that they are “unreliable, lazy, responsible for their illness or otherwise blameworthy, faking or exaggerating their condition, or childlike and in need of supervision or care.”¹⁹⁹

Perhaps because of this unfortunate reality, athletes who have opened up about their experiences with mental health issues found it important to point to the similarities between physical and mental health. For example, discussing the ways in which some of his teammates refused to view his experiences with anxiety the same way as a physical injury, NFL player Brandon Brooks said: “You pull your hamstring, right? And you [treat it] to get it right. Same thing with mental illness.”²⁰⁰ Similarly, NBA player Kevin Love described the panic attack he experienced during an NBA game as being “as real as a broken hand or a sprained ankle.”²⁰¹

Sports leagues’ choice to label mental health issues as “personal” (while disclosing specific information about physical health) may convey the message that there is a qualitative difference between physical and mental health for the purpose of disclosure, hindering athletes’ efforts to raise awareness to the fact that mental health issues are not less “real” than physical injuries.

In sum, because some mental health issues experienced by athletes *are* sports-related, sports leagues’ policy to report mental health issues as “personal reasons” cannot be justified by the misguided notion that such issues are fully “personal.” To be clear, we recognize that, as Professor Daniel Solove has noted, information about one’s health

197. Adi Goldiner, *Moral Accommodations: Tolerating Impairment-Related Misconduct Under the Americans with Disabilities Act*, 54 COLUM. HUM. RTS. L. REV. 171, 236–39 (2022).

198. Elizabeth F. Emens, *Against Nature*, 52 NOMOS 293, 308 (2012).

199. Emens, *supra* note 129, at 416–17.

200. Tim McManus, *Eagles’ Brandon Brooks Brings Recognition of Battle with Anxiety*, ESPN (Nov. 25, 2019), https://www.espn.com/blog/philadelphia-eagles/post/_id/24284/eagles-brandon-brooks-brings-winning-battle-against-anxiety [https://web.archive.org/web/20260105125500/https://www.espn.com/blog/philadelphia-eagles/post/_id/24284/eagles-brandon-brooks-brings-winning-battle-against-anxiety].

201. Kevin Love, *Everyone Is Going Through Something*, PLAYERS’ TRIB. (Mar. 6, 2018), <https://www.theplayertribune.com/articles/kevin-love-everyone-is-going-through-something> [https://web.archive.org/web/20260105125726/https://www.theplayertribune.com/articles/kevin-love-everyone-is-going-through-something].

is “deeply personal.”²⁰² But Solove’s statement does not pertain only to mental health; it also applies to physical health. Thus, if sports leagues want to take athletes’ privacy interest seriously, they should treat both physical and mental injuries as “personal.” As we have argued, assigning the “personal” label solely to mental health issues exacerbates the stigma associated with mental health and may revitalize obsolete misconceptions that associate mental health issues with certain personal traits.

III. THE POLITICAL ECONOMY OF HEALTH-INFORMATION DISCLOSURE

As the preceding Part has shown, the three possible rationales discussed above cannot fully justify the status quo, whereby sports leagues report specific information about physical injuries while using an umbrella category—“personal reasons”—to report mental health issues.

If those justifications fail, why do professional sports leagues maintain this distinction? In trying to answer this question, this Part turns from a theoretical and normative analysis to a more descriptive and realistic one. We suggest that, although far from conclusive, there is some circumstantial evidence that the decision has to do with financial considerations. In other words, it can be argued that injury reports are being used by sports leagues as a way to facilitate and maintain sports betting systems and that reporting mental health issues as “personal reasons” is aligned with this purpose.

As this Part shows, this claim can be supported by two types of evidence: (1) an analysis of the evolution of sports betting and injury reports in the United States; and (2) past statements and practices by U.S. sports leagues’ leaders.

Let us begin with recent constitutional and regulatory developments in the area of sports betting and injury reports. Following the 2018 Supreme Court decision in *Murphy* that allowed states to legalize sports betting, the practice has proven to be a lucrative business. In 2024 alone, the revenue from sports betting in the United States was almost \$14 billion—an increase of more than \$2 billion compared to 2023.²⁰³

As an increasing number of states moved to legalize sports wagering within their jurisdictions, U.S. sports leagues have also begun to cut deals with a number of stakeholders operating in this area. For example, sports leagues have contracted with sportsbooks, allowing the latter to publicize and promote sports betting in stadiums and arenas,²⁰⁴ with at least one sportsbook opening a branch inside a sports arena.²⁰⁵ U.S. sports leagues have also collaborated with data providers with the purpose of

202. Daniel J. Solove, *The Virtues of Knowing Less: Justifying Privacy Protections Against Disclosure*, 53 DUKE L.J. 967, 1011 (2003).

203. Greenberg, *supra* note 51.

204. Kyle Hightower, *Pro Leagues Balance Profit, Integrity Risks in Legal Betting Era*, AP (June 14, 2023), <https://apnews.com/article/sports-betting-nfl-nba-mlb-nhl-e05bff6f8a0153dbded66d1dd5c6cd3a> [<https://web.archive.org/web/20240331125924/https://apnews.com/article/sports-betting-nfl-nba-mlb-nhl-e05bff6f8a0153dbded66d1dd5c6cd3a>].

205. Kilgore, *supra* note 5.

collecting and selling data for sports betting.²⁰⁶ In doing so, they turn “official data that is the lifeblood of in-game betting into profits.”²⁰⁷

Importantly, although historically U.S. sports leagues had opposed the legalization of sports betting, this approach changed during the last two decades, as the commissioners of leading sports leagues began to advocate for legalization and regulation of the practice.²⁰⁸ The stated reason for this shift was that legalization and regulation of sports betting were needed to protect the integrity of sports amidst the rise of illegal online sports wagering. In a 2014 *New York Times* op-ed that has become famous, NBA Commissioner Adam Silver suggested that the desirable approach is to bring sports betting “out of the underground and into the sunlight where it can be appropriately monitored and regulated.”²⁰⁹

In accordance with this shift, injury reports are perceived today by many as a tool to promote transparency and protect the “integrity of sports.” But this and other attempts to prevent manipulation of sports betting have also been recently linked to profit-seeking endeavors on the side of sports leagues.²¹⁰ Moreover, the actors benefiting the most from “transparency” measures such as injury reports are sportsbooks like DraftKings and FanDuel, as well as the leagues themselves.²¹¹ Indeed, sports leagues’ interest in betting-related data coincides with the leagues’ attempts to find new ways to increase fan engagement and compete over fans’ diminishing attention spans.²¹²

206. Marc Edelman & John T. Holden, *Monopolizing Sports Data*, 63 WM. & MARY L. REV. 69 (2021).

207. Hightower, *supra* note 204.

208. John T. Holden, Marc Edelman & Keith Miller, *Legalized Sports Wagering in America*, 44 CARDOZO L. REV. 1383, 1386, 1389–404 (2023).

209. Adam Silver, *Legalize and Regulate Sports Betting*, N.Y. TIMES (Nov. 13, 2014), <https://www.nytimes.com/2014/11/14/opinion/nba-commissioner-adam-silver-legalize-sports-betting.html>

[<https://web.archive.org/web/20251120135611/https://www.nytimes.com/2014/11/14/opinion/nba-commissioner-adam-silver-legalize-sports-betting.html>].

210. Holden et al., *supra* note 208, at 1438–39 (“[T]oday the sports league lobby has become a critical force in demanding ‘integrity fees,’ ‘data mandates,’ and other unnatural means of expanding their rights over sports game data as a means to ensure, for themselves, a direct share of the revenues from legalized, licensed sports wagering.”).

211. Kilgore, *supra* note 5.

212. See Andrew Brandt, *Professional Sports Leagues’ Big Bet: “Evolving” Attitudes on Gambling*, 28 STAN. L. & POL’Y REV. 273, 275 (2017) (describing an increased interest in sports betting among sports leagues as the leagues “move into a new era of fan engagement”); *Silver Talks Player Anxiety, Potential NBA Changes*, ESPN (Mar. 1, 2019), https://www.espn.com/nba/story/_/id/26114198/silver-talks-player-anxiety-potential-nba-changes

[https://web.archive.org/web/20260105132113/https://www.espn.com/nba/story/_/id/26114198/silver-talks-player-anxiety-potential-nba-changes] (reporting the NBA Commissioner’s concerns about a decrease in the NBA’s television ratings and discussing a number of potential steps the league might take to address this issue, although not mentioning sports betting among those interventions); Phillip Molnar, *Can Professional Sport Leagues Reverse the Trend of Declining Younger Viewership?*, SAN DIEGO UNION-TRIB. (Oct. 1, 2021), <https://www.sandiegouniontribune.com/2021/10/08/can-professional-sport-leagues-reverse-the-trend-of-declining-younger-viewership/>

[<https://web.archive.org/web/20250722173224/https://www.sandiegouniontribune.com/2021/10/08/can-professional-sport-leagues-reverse-the-trend-of-declining-younger-viewership/>] (discussing sports leagues’ reaction to declines in viewership among young fans).

As early as 2017, one year before the Supreme Court made legalized sports betting in the United States possible, Professor Andrew Brandt, who had previously worked as a sports executive, observed that professional sports “are actively assessing the best ways to react, respond, and potentially monetize the legal landscape around sports gambling.”²¹³ Demonstrating how leagues’ attempts to protect sports integrity may also promote narrow economic interests, Brandt pointed to the fact that one of the data companies hired by sports leagues to detect irregularities in betting markets is partly owned by an owner of NFL and NHL teams.²¹⁴ “Integrity matters to sports leagues,” Brandt concluded, “but so do monetization, licensing, and the revenue streams possible in a regulated marketplace.”²¹⁵ From this perspective, the content of injury reports may be guided, among other considerations, by financial and marketing considerations.

Further evidence supporting this claim can be found in U.S. sports leagues’ response to the adoption of the HIPAA “privacy rule,” described above.²¹⁶ In 2002, as the Department of Health and Human Services (“HHS”) was preparing to issue a Final Rule implementing HIPAA, there were some concerns among sports teams that the disclosure of injury reports may constitute a violation of the Privacy Rule.²¹⁷ According to contemporaneous news articles, some sports teams reacted by hiring law firms that would advocate to exempt sports organizations’ from the application of the Rule by filing comments with HHS as part of the notice and comment rulemaking.²¹⁸ A *New York Times* article from that time quoted one of the lawyers representing an NFL team as saying that “this is a very important issue to our clients.”²¹⁹ Another *Times* article stated that “[s]ome sports officials believe that the public disclosure of medical information is essential to the business of selling tickets.”²²⁰

As noted above, the rule that was eventually adopted effectively exempted sports leagues from the application of the Privacy Rule when it comes to injury reports.²²¹ Although this was the desired outcome from the perspective of the leagues, the players themselves may have favored a different application of the Privacy Rule. As one

213. Brandt, *supra* note 212, at 275.

214. *Id.* at 294.

215. *Id.* at 301.

216. 45 C.F.R. §§ 164.500–534.

217. Buster Olney, *Law May Forbid Leagues to Say If Player Is Hurt*, N.Y. TIMES (June 11, 2002), <https://www.nytimes.com/2002/06/11/sports/baseball-law-may-forbid-leagues-to-say-if-player-is-hurt.html>

[<https://web.archive.org/web/20200523081611/https://www.nytimes.com/2002/06/11/sports/baseball-law-may-forbid-leagues-to-say-if-player-is-hurt.html>] [hereinafter “Olney, *Law*”]; Buster Olney, *Leagues Seek Relief from Privacy Law*, N.Y. TIMES (July 4, 2002), <https://www.nytimes.com/2002/07/04/sports/leagues-seek-relief-from-privacy-law.html>

[<https://web.archive.org/web/20150527202653/https://www.nytimes.com/2002/07/04/sports/leagues-seek-relief-from-privacy-law.html>] [hereinafter “Olney, *Leagues*”].

218. Olney, *Leagues*, *supra* note 217.

219. *Id.*

220. Olney, *Law*, *supra* note 217.

221. See *supra* note 83 and accompanying text.

journalist had put it before the Final Rule was adopted: “Most players would be in favor of teams keeping their injuries quiet.”²²²

The aforementioned quotes, as well as the fact that sports teams and leagues invested efforts and resources to achieve this outcome, suggest that the importance of the injury reports to the leagues’ business operations outweighed the leagues’ concerns about athletes’ privacy.

To understand how this injection of financial and marketing logic into injury reporting systems has changed the purpose of injury reports over time, consider the motivation behind the NFL’s first formulation of an injury reporting system in the late 1940s. As noted above, then-NFL Commissioner Bert Bell established this rule as part of a broader attempt to protect “the public” from manipulations by bookmakers and “professional gamblers.”²²³ According to Bell’s biography, his explanation for adopting such transparency measures was: “I can’t do anything about people betting, but I’ll make sure the public knows as much as the gamblers.”²²⁴ Today, by contrast, injury reports are no longer aimed solely at leveling the playing field; they have also become part of “a data-driven form of entertainment.”²²⁵ To invoke Professor David Pozen’s theory of the role transparency measures play in contemporary society, injury reports have experienced “ideological drift”—their “political valance [have] become less progressive and more libertarian.”²²⁶

What does all of this mean for the content and categories used in injury reports? It might mean that, even though sports leagues have made important progress toward raising awareness to mental health issues in recent years, they may still perceive the incorporation of a mental health designation into injury reporting systems as being detrimental to their business operation. Here again, the evidence is far from conclusive, but there is some evidence pointing in that direction.

Consider, for example, the way in which NBA Commissioner Adam Silver addressed in 2019 the rise in players’ reports of mental health issues. While Silver acknowledged that “[a] lot of players are unhappy,”²²⁷ he went on to note that this is “a direct result of social media” and other generational differences affecting the relationships among the athletes themselves.²²⁸ Specifically, Silver noted that whereas in the past there was a sense of camaraderie within each team that manifested in the ways in which athletes interacted with each other on the team’s bus, today “everyone on the bus wears headphones.”²²⁹ Thus, Silver didn’t acknowledge that the NBA itself may have played any role in athletes’ experiences of mental health issues. According to

222. Tyler Kepner, *Injuries Could Become Classified*, N.Y. TIMES (June 12, 2002), <https://www.nytimes.com/2002/06/12/sports/baseball/injuries-could-become-classified.html> [<https://web.archive.org/web/20260121035524/https://www.nytimes.com/2002/06/12/sports/baseball/injuries-could-become-classified.html>].

223. LYONS, *supra* note 38, at 135, 283.

224. *Id.* at 283.

225. *Id.*

226. David E. Pozen, *Transparency’s Ideological Drift*, 128 YALE L.J. 100, 102 (2018).

227. *Silver Talks Player Anxiety*, *supra* note 212.

228. *Id.*

229. *Id.*

Silver, the reason for the increased number of players speaking up about mental health was simply because “[w]e are living in a time of anxiety.”²³⁰

While Silver’s account may be correct, it might as well be the case that athletes have *a/ways* experienced mental health issues—they simply didn’t feel that they could speak about it in public. What has changed, on this account, is the culture surrounding disclosure of mental health issues among elite athletes—making it less stigmatizing to speak up about one’s mental health issues. Either way, including a formal designation of mental health in injury reporting systems may require sports leagues to implicitly recognize that the leagues, too, are responsible for the formation and aggravation of mental health issues, similar to the way in which the leagues see their role in addressing physical injuries.²³¹ And this may not necessarily be in the leagues’ interest.

Relatedly, when it comes to competitive sports, the prevailing culture is still one where “[c]hampions are strong not weak, and feelings of being lost and scared are not champion qualities.”²³² Accordingly, “the culture of sport has long inhibited disclosure” of mental health issues.²³³ Although things have recently started to change, the leagues may still prefer not to be directly associated with mental health issues through official injury reports.

IV. ALTERNATIVE METHODS OF DISCLOSURE AND AVENUES FOR CHANGE

So, what steps can be taken to improve existing injury reporting systems? This Part begins by explaining why an automatic disclosure of mental health issues would not be desirable at this moment in time. Then, it turns to discuss alternative ways to address the problem identified in this Article. This Part concludes by discussing the legal strategies that reformers can use to change the status quo.

A. THE POTENTIAL HARMS OF UNWANTED DISCLOSURE

Thus far, we have argued against the inconsistent manner in which sports leagues disclose information about athletes’ physical and mental health. If there is indeed no justification to treat these types of information differently, then one could suggest to “level up” the playing field by disclosing both physical and mental health. However, a blanket policy under which all mental health issues are reported to the public is not socially desirable for at least three reasons: (1) automatic publicity may deter some athletes from disclosing such issues in the first place; (2) involuntary disclosures could cause players to suffer harm in terms of relationships with family, friends, and community; and (3) automatic disclosure of mental health issues may harm athletes in their post-athletic careers. In this Section, we discuss each of these reasons in turn.

230. *Id.*

231. For example, the NBA has recently “convened a panel of experts” to examine the reasons behind a recent increase in Achilles tendon injuries among NBA players. Reynolds, *supra* note 185.

232. Weston, *supra* note 81, at 59 (quoting Dr. Hillary Cauthen, a clinical sport psychologist).

233. *Id.*

1. Automatic publicity may deter some athletes from disclosing mental health issues in the first place.

If automatic disclosure is the norm, players may avoid seeking diagnosis and treatment out of fear that their conditions will be disclosed. This may also prevent athletes from taking time off to address their mental health.

Importantly, sport is not the only social arena in which such concerns arise, and policymakers have taken these concerns into consideration when formulating policies that pertain to the disclosure of health information or the access to such information. In clinical practice, for example, portions of the electronic record containing psychiatric treatment records are often hidden from physicians providing direct medical care to a patient, unless the physician specifically justifies the need for accessing those records.²³⁴ This level of security, entitled ‘break the glass’ (“BTG”) access, is rigorously tracked and can expose the physician to disciplinary action if their accessing BTG portions of the chart is deemed inappropriate by the healthcare organization.²³⁵ One of the reasons behind this policy is the concern that the social stigma surrounding mental health would “prevent some patients from ever seeking care.”²³⁶ From another perspective, scholars and commentators often cite the concern that publicity might deter people from seeking treatment as one of the reasons not to require presidential candidates and corporate executives to disclose information about their health.²³⁷

2. Disclosures could cause players to suffer harm in terms of relationships with family, friends, and community.

Even though there has been some progress in social acceptance of mental health issues, such issues may still be considered unacceptable because of stigma. This, in turn, may make disclosure “far less feasible or affirming” for some people and may cause certain athletes to suffer harm in terms of relationships with family, friends, and

234. See, e.g., Jan Greene, *Behavioral Health Data in the Electronic Health Record: Privacy Concerns Slow Sharing*, 62 NEWS & PERSP. 19A, 20A (2013) (noting that mental health information sharing in Electronic Health Records “has seriously lagged behind” the sharing of other types of health information); Dana E. Kozubal et al., *Separate May Not Be Equal: A Preliminary Investigation of Clinical Correlates of Electronic Psychiatric Record Accessibility in Academic Medical Centers*, INT’L J. MED. INFORMATICS 260, 261 (2013) (“[I]t has become common practice to exclude details from psychiatric evaluations from a patient’s medical chart.”); see also William M. Tierney et al., *Provider Responses to Patients Controlling Access to their Electronic Health Records: A Prospective Cohort Study in Primary Care*, 30 J. GEN. INTERN. MED. S31, S32 (2014) (describing an information system whereby patients could choose to restrict access to specific data in their Electronic Health Records, including “mental health information”).

235. Greene, *supra* note 234, at 19; Mytilee Vemuri & Laura B. Dunn, *Ethical and Clinical Issues in Integrated Care Settings: Patient Privacy Concerns and Electronic Health Records*, 15 ETHICS COMMENT. 301, 302 (2017).

236. Vemuri & Dunn, *supra* note 235, at 301.

237. Annas, *supra* note 24, at 947–48; cf. Brown, *supra* note 19, at 309 (“[O]ne chief reason for privileged communications between a patient and her physician is to encourage individuals to seek medical care even in situations where the disease or its treatment is stigmatized.”).

community.²³⁸ The concern that people would avoid disclosure for fear of stigma is particularly relevant in the context of professional sports, where the high level of publicity may intersect with other modes of social oppression—including racism, sexism, and transphobia—to discourage athletes from speaking up about their mental health issues. For example, the fact that most sports competitions are separated along sex lines may not only exacerbate mental health issues for some athletes,²³⁹ but also complicate disclosure about such issues.

3. Disclosures may harm athletes in their post-athletic careers.

Disclosure of mental health issues may have detrimental consequences for post-athletic careers, including management and coaching positions. For many of these jobs, employers are not likely to consider a person's record of past *physical* injuries. But employers' knowledge of an applicant's past mental health issues may adversely affect the candidate's chances of getting hired as a result of prevailing stigma concerning mental health.²⁴⁰ Unfortunately, people with mental health issues experience pervasive discrimination in the workplace and elsewhere.²⁴¹ For example, a 2018 systematic review found that workers with "mental illness" often lose employment opportunities for a variety of reasons, including low self-esteem and stereotypes.²⁴² Courts, too, are less likely to grant relief to people with psychosocial impairments experiencing discriminatory behaviors than they are to people with physical impairments.²⁴³ To make things even more complicated, some people may not even be aware that discrimination against psychosocially disabled people is illegal.²⁴⁴

B. ALTERNATIVES TO AUTOMATIC DISCLOSURE

The preceding Section suggests that automatic disclosure of mental health issues in injury reports is not desirable. On the other hand, for the reasons discussed in Part II, the current system—in which sports leagues treat mental health issues as "personal reasons" while reporting physical injuries in great specificity—is not desirable either. Thus, alternatives ought to be considered.

238. Eyer, *supra* note 159, at 556.

239. Nancy Leong & Emily Bartlett, *Sex Segregation in Sports as a Public Health Issue*, 40 CARDOZO L. REV. 1813, 1830 (2019).

240. Harris, *supra* note 156, at 1704–08.

241. Judith A. Cook, *Employment Barriers for Persons with Psychiatric Disabilities: Update of a Report for the President's Commission*, 57 PSYCH. SERVS. 1391, 1395 (2006).

242. Kayla B. Follmer & Kisha S. Jones, *Mental Illness in the Workplace: An Interdisciplinary Review and Organizational Research Agenda*, 44 J. MGMT. 325, 334, 336–37 (2018).

243. Susan D. Carle, *Analyzing Social Impairments Under Title I of the Americans with Disabilities Act*, 50 U.C. DAVIS L. REV. 1109, 1115 (2017).

244. See Sara Emily Burke & Roseanna Sommers, *Reducing Prejudice Through Law: Evidence from Experimental Psychology*, 89 U. CHI. L. REV. 1369, 1389 (2022) ("[L]aypeople generally find it plausible that such discrimination is legal.").

1. Abandon the disclosure of players' health information—either physical or mental.

The avenue for reform that we find most socially desirable is to abandon the disclosure of players' health information. As noted above, such an approach is currently employed in the context of college sports, where some conferences report the availability to play of college athletes—without providing a medical-based explanation for a possible absence.²⁴⁵

Under this approach, leagues would still issue “availability reports,” using the same language such as “out” or “probable” to denote the likelihood that a certain player would take part in the game. However, the report would not provide any information on the injury itself.

A variation of this approach was proposed by a group of scholars who expressed skepticism as to whether the NFL injury reporting system can be justified in light of athletes' privacy interest in their medical information.²⁴⁶ In making proposals to the NFL, they recommended to “consider removing the requirement that clubs disclose the location on the body of a player's injury from the Injury Reporting Policy.”²⁴⁷ These scholars, however, did not evaluate the matter from a mental-health perspective. Moreover, they stopped short of recommending that “the NFL no longer obligate clubs to report information on the status of players.”²⁴⁸

If sports leagues abandon their injury reporting policies and replace them with general “availability reports,” they would narrow the gap between the ways in which physical and mental health injuries are treated, thereby addressing some of the problems discussed above. Indeed, the major problem identified in this Article is the different ways in which physical and mental health issues are reported. The term “personal reasons” only becomes meaningful when it is associated with mental health and compared to other, more specific reporting designations.

Abandoning the requirement to report injuries in specificity is a promising strategy not only because it would indirectly challenge the distinction between physical and mental health, but also because it invites stakeholders to question the underlying rationales behind injury reports in professional sports and challenge assumptions about the need to disclose athletes' health in the first place. This is particularly so given the concern that injury reports may be part of a broader attempt to monetize fans' interest in sports betting. Indeed, when transparency is used for profit-seeking and for increasing corporate revenue—instead of advancing egalitarian objectives²⁴⁹—it might be a good idea to rethink how transparency is operationalized.

Are the social costs associated with the disclosure of athletes' injuries worth the benefits that may accrue from such reporting? And why should athletes be expected to

245. See *supra* note 61 and accompanying text.

246. Deubert et al., *supra* note 5, at 18.

247. *Id.* at 99–100.

248. *Id.* at 18.

249. See Pozen, *supra* note 226.

regularly disclose their health information when CEOs of public companies and presidential candidates are generally not subject to similar disclosure obligations.²⁵⁰ In developing policies that pertain to athletes' health and identity, policymakers should ask these questions, rather than assume that the status quo is desirable or inevitable.

Granted, limiting leagues' reporting system to focus only on availability (as opposed to disclosure of health information) does not mean that information about athletes' injuries would become completely confidential. As a result of social and technological developments, athletes today are constantly monitored and surveilled by their teams and media.²⁵¹ Similar to other public figures, it is possible that information about their health will become public as part of a media reporting or voluntary disclosures. But from the perspective of law and policy, even this reality may be preferable than the current situation, in which sports leagues' official policies create an ecosystem of widespread and systematic disclosure of health information in which mental health is treated as "personal matter" by official sports leagues' designations.

Another possible critique of our proposal to abandon health information disclosures involves the idea that there are other reasons to disclose athletes' injuries beyond sports betting, including fans' interest in knowing whether their favorite athletes are going to play in a certain game. But fans' expectations cannot justify the disclosure of information about athletes' health, if only because there is no guarantee that a certain athlete would be able to fully participate in a certain game, even if the athlete does not have an injury prior to the game. In fact, a player could get injured at any point in the game and miss the rest of it. Thus, similar to the reasons articulated by the Ninth Circuit in the 2019 boxing case,²⁵² fans' expectations cannot be a significant factor in the shaping of injury reports. Moreover, disclosing whether a player is available for a certain game may be sufficient for the purpose of providing fans with information about whether their favorite athletes are going to play.

Admittedly, removing health information from availability reports may not be a favorable avenue from the perspective of bettors and sportsbooks.²⁵³ This reform may also result in bettors and other stakeholders pressuring athletes to disclose the status of their injuries, which in turn may result in athletes being subject to disciplinary or criminal liability for providing "inside information" about their health to bettors,²⁵⁴ as well as likely invasions of privacy by individuals who attempt to gather information

250. See Brown, *supra* note 19, at 304 ("There is no law that requires candidates for the presidency, or the presidents themselves, to disclose anything at all about their health."); Lin, *supra* note 21, at 408 ("No company has ever been held to account by the SEC for failing to disclose information about its chief executive's health[.]" (citing Joe Nocera, *Apple's Culture of Secrecy*, N.Y. TIMES (Jul. 26, 2008), <https://www.nytimes.com/2008/07/26/business/26nocera.html> [<https://web.archive.org/web/20260125202052/https://www.nytimes.com/2008/07/26/business/26nocera.html>])).

251. See e.g., Matthew T. Bodie, *The Law of Employee Data: Privacy, Property, Governance*, 97 IND. L.J. 707, 740–41 (2022) ("More data is likely collected from professional athletes than any other occupation.").

252. See *supra* notes 88–91 and accompanying text.

253. William Daniel, *Leveling the Playing Field: Injury Reports, College Football, and Medical Privacy of Players*, 68 DRAKE L. REV. 185, 210–11 (2020).

254. Holden, *supra* note 62; McChrystal, *supra* note 43, at 179–80.

about athletes' injuries. But there are ways to address these concerns, for example by imposing liability for disclosure of nonpublic information only when there is evidence that the athlete in question actually intended to disclose nonpublic information for the purpose of sports betting.²⁵⁵

2. Use default rules and provide athletes with an opportunity to control disclosure.

Another avenue for reform can be found in the literature on contractual default rules.²⁵⁶ That literature suggests that setting certain defaults in law may achieve desirable regulatory results while protecting people's autonomy to choose an alternative route. Thus, for example, if sports leagues want to protect athletes' privacy to the maximum extent possible, they can create a system whereby the default reporting category would not explicitly refer to mental health issues, while allowing athletes to "opt out" and ask to be reported under the mental health designation. Conversely, if leagues want to encourage disclosure of mental health issues, they may set the default on disclosure while allowing athletes who wish *not* to disclose mental health issues to use a different reporting category. Either way, the leagues can avoid using a blanket policy that may fit some of the athletes, but not others.

To the extent that some athletes may prefer not to be the first to include information about their mental health in the official injury reports, sports leagues can use what Professor Jasmine Harris has called "disability identity escrow."²⁵⁷ By disability identity escrow, Harris means a mechanism that allows employees to share their disability identity with "an independent intermediary between the employer and the employee who owes fiduciary duties" to disabled employees.²⁵⁸ Under this mechanism, an athlete would be able to provide instructions to the identity escrow agent with respect to the timing and circumstances under which the agent can disclose the information as part of injury reporting. For example, the athlete can condition disclosure only if the "mental health" designation would be used to report absence of at least three other athletes.²⁵⁹ This mechanism, which builds on Ian Ayres and Cait Unkovic's work on "information escrows,"²⁶⁰ may solve the "first actor problem" that may arise when athletes contemplate whether to include information about their mental health in injury reports.²⁶¹

One problem with the default-rules approach is that it would still be difficult to know precisely how many athletes have missed games for mental health reasons. In fact, if "mental health" issues would be underreported under such a policy, it may

255. Covo, *supra* note 8, at 291.

256. See Robert Gertner & Ian Ayres, *Filling Gaps in Incomplete Contracts: An Economic Theory of Default Rules*, 99 YALE L.J. 87, 87-91 (1989) (distinguishing between "default" and "immutable" rules).

257. Harris, *supra* note 156, at 1747-48.

258. *Id.* at 1747.

259. *Id.*

260. See Ian Ayres & Cait Unkovic, *Information Escrows*, 111 MICH. L. REV. 145 (2012).

261. Harris, *supra* note 156, at 1746.

exacerbate the problem by painting an inaccurate picture about the prevalence of mental health in professional sports.

3. Replace "Personal Reasons" with a less stigmatizing reporting category.

Another way to address the dilemma identified in this Article is to report mental health issues under an umbrella category that does not treat mental health issues as "personal reasons." Thus, sports league would be able to protect athletes' privacy by maintaining some ambiguity about the reasons behind their absence, while at the same time avoiding the "expressive harms" that result from the use of the "personal reasons" category. By way of example, the Individuals with Disabilities Education Act includes a list of impairments that give rise to eligibility for special education services. Among those impairments is the umbrella category of "Other Health Impairment,"²⁶² which does not downplay or trivialize the conditions that belong to that category. Specifically, by using the words "Health Impairment," that category avoids attributing mental health issues to an individual's character or behavior. In this respect, perhaps counterintuitively, "medicalizing" mental health issues and equating such issues to physical impairments may help reduce the stigma and stereotypes that are commonly attached to mental health conditions.²⁶³

Interestingly, this approach is compatible with a proposal made by tennis player Naomi Osaka, who advocated to allow athletes to take some time off under the title of "sick days" without disclosing the exact reason. As Osaka put it: "[M]y No. 1 suggestion would be to allow a small number of 'sick days' per year where you are excused from your press commitments without having to disclose your personal reasons."²⁶⁴

C. WHICH LEGAL STRATEGIES TO PURSUE

How should advocates pursue the above reforms? In theory, one way to intervene in the existing practices regarding disclosure of athletes' injuries is through governmental action. In a 2020 student note, Ryan Grandeau called on Congress to regulate sports betting markets by establishing disclosure requirements similar to those enforced by the SEC in the corporate context.²⁶⁵ According to this proposal, sports teams would disclose athletes' injuries "to an agency, analogous to the SEC, which could act as a central repository of information and make periodic disclosures to the public."²⁶⁶

262. 20 U.S.C. § 1401(3)(A)(i).

263. Cf. Emens, *supra* note 198, at 308 ("For individuals with psychiatric disabilities, the fact of a diagnosis, particularly one explained through brain chemistry, can sometimes be a relief.")

264. Naomi Osaka, *It's O.K. Not to Be O.K.*, TIME (July 8, 2021), <https://time.com/6077128/naomi-osaka-essay-tokyo-olympics/> [<https://web.archive.org/web/20260108212646/https://time.com/6077128/naomi-osaka-essay-tokyo-olympics/>].

265. Grandeau, *supra* note 52, at 1256–61.

266. *Id.* at 1260.

A number of lawmakers have expressed interest in establishing an entity that would collect data and monitor betting activities across the country, but according to their proposals, that entity would not be responsible for regulating the dissemination of information about athletes' injuries. Specifically, a 2018 federal bill includes a provision establishing "a National Sports Wagering Clearinghouse" that would "contribute to and disseminate, on a national basis, information relating to best practices and model programs and resources" that benefit betting integrity and "operate a national repository of anonymized sports wagering data and suspicious transaction reports."²⁶⁷

If Congress adopts Grandeau's approach and the federal government regulates disclosure of athletes' injuries for the purpose of sports betting, then the government may also have the authority to decide which information should be disclosed and how disclosure should be made.

There are several problems with this proposal, however. First, although it seems that there is an increasing willingness to regulate sports betting at the federal level,²⁶⁸ the political feasibility of such a move is unclear at best.²⁶⁹ Moreover, even if Congress passes a law to regulate sports betting, it is unlikely that Congress would decide to impose disclosure mandates for this purpose, in part because governmental intervention in this area is likely to face significant First Amendment challenges,²⁷⁰ including with respect to the designations used in injury reports.²⁷¹

Another route to address issues that pertain to the disclosure of health information would be to use one of the federal or state laws that aim to protect privacy. As described in Part I, however, injury reporting systems are established and regulated through private ordering involving the athletes themselves.²⁷² Specifically, athletes agree to disclose their health information in their individual contracts, as well as through collective bargaining agreements. Even though it is debatable how much of athletes'

267. Sports Wagering Marketing Integrity Act of 2018, S. 3793, 115th Cong. (2018); see also Holden et al., *supra* note 208, at 1431–32 (discussing the National Sports Wagering Clearinghouse part of the bill).

268. See, e.g., Supporting Affordability and Fairness with Every Bet Act of 2024, H.R. 9590, 118th Cong. (2024).

269. Holden et al., *supra* note 208, at 1433 (analyzing past attempts to regulate sports betting at the federal level and concluding that "the assumption, pre-*Murphy*, that sports betting would inevitably be a product of federal legislation seems long, long ago").

270. For an analysis of the tension between the First Amendment and mandatory disclosure in the context of corporate disclosure, see Heminway, *supra* note 21, at 774–80.

271. See *Sorrell v. IMS Health Inc.*, 564 U.S. 552, 570 (2011) ("[T]he creation and dissemination of information are speech within the meaning of the First Amendment."); *Matal v. Tam*, 582 U.S. 218, 246 (2017).

272. See *supra* notes 78–81 and accompanying text.

consent actually reflects voluntary disclosure,²⁷³ the existence of those “waivers” make challenging the injury reporting systems a difficult task.²⁷⁴

Although some aspects of the sports betting apparatus are regulated by state laws, injury reporting systems are almost exclusively governed by a private order.²⁷⁵ Indeed, as described above, federal and state laws currently play no role in the content and shape of injury reports. This leaves reformers with no meaningful legal avenue to challenge the ways in which injury reporting systems operate. Although injury reports may have negative externalities—for example, they may perpetuate stigma and entrench misconceptions about the causes and nature of mental health issues—individuals interested in addressing these harms have no legal vehicle to do so.²⁷⁶

Another hurdle for challenging the operation and designations used in injury reporting systems is the fact that some of the policies governing these systems are not publicly available, and those that are available sometimes fail to fully explain the process of disclosure or to define important terms such as “personal reasons.”²⁷⁷ There is much irony in this lack of transparency, given that injury reports are, by their very nature, transparency measures.

Thus, the only promising avenues for reform seem to involve advocacy and athletes’ bargaining power. In recent years, a number of sports organizations have changed the names or titles of sports-related practices after facing criticism from civil rights and advocacy groups.²⁷⁸ The closest example to the topic discussed in this Article is MLB’s decision in 2019 to rename its “disabled list” as the “injured list.”²⁷⁹ That change came as a result of advocacy by disability rights groups, who expressed a concern that “the

273. See Osborne, *supra* note 83, at 55 (“The choice is then not between authorization and non-authorization, but between signing with a team (or playing the sport at the professional level at all) and non-authorization.”); James Blake Hike, Note, *An Athlete’s Right to Privacy Regarding Sport-Related Injuries: HIPAA and the Creation of the Mysterious Injury*, 6 IND. HEALTH L. REV. 47, 72 (2009) (raising the question “whether a player should be allowed to waive or contract away their HIPAA rights with a contractual waiver”). See also Daryl J. Levinson & David Pozen, *Disconsents*, 126 COLUM. L. REV. 1, 4 (2026) (noting that, in recent decades, “the prospects for achieving meaningful consent in a wide range of contexts” have dimmed).

274. Cf. Levinson & Pozen, *supra* note 273, at 19 (“In the analog world as in the digital world, mandatory arbitration clauses and liability waivers became ubiquitous features of the workplace and the marketplace, and were largely upheld by courts on the basis of employee or consumer consent.”).

275. For an analysis of a similar private order in the sports context, see Suren Gomtsian et al., *Between the Green Pitch and the Red Tape: The Private Legal Order of FIFA*, 43 YALE J. INT’L L. 85 (2018).

276. In certain circumstances, courts may consider non-party interests in contract disputes, but the issue of injury reports does not seem to fall within those situations. See Omri Ben-Shahar, David A. Hoffman & Cathy Hwang, *Nonparty Interests in Contract Law*, 171 U. PA. L. REV. 1095 (2023).

277. See *supra* notes 100–109 and accompanying text.

278. See, e.g., Emma Bowman, *For Many Native Americans, the Washington Commanders’ New Name Offers Some Closure*, NPR (Feb. 6, 2022), <https://www.npr.org/2022/02/06/1078571919/washington-commanders-name-change-native-americans> [<https://web.archive.org/web/20260108222412/https://www.npr.org/2022/02/06/1078571919/washington-commanders-name-change-native-americans>].

279. Jeff Passan, *Major League Baseball to Rename Disabled List as “Injured List”*, ESPN (Feb. 7, 2019), https://www.espn.com/mlb/story/_/id/25947020/major-league-baseball-rename-disabled-list-injured-list [https://web.archive.org/web/20260108222621/https://www.espn.com/mlb/story/_/id/25947020/major-league-baseball-rename-disabled-list-injured-list].

term ‘disabled’ for injured players falsely conflates disabilities with injuries and an inability to participate in sports.”²⁸⁰

Moreover, professional sports is often invoked by work-law experts as an arena where athletes “have a collective voice to negotiate the methods, manner, and scope of data collection by the teams.”²⁸¹ Anecdotal evidence cited throughout this Article suggests that the current formulation of injury reports, including the designation used in those reports, do not fully reflect the interests of some athletes. Some athletes have expressed an interest in using a mental health designation;²⁸² others prefer not to disclose their health information—either physical or mental.²⁸³

Thus, the fact that the NBPA addressed the issue of mental health designation in negotiating a collective bargaining agreement with the league²⁸⁴ is a promising sign that advocacy and collective bargaining may help address at least some of the problems with the existing system.

CONCLUSION

Over the last decade, as professional athletes have begun to speak up about their mental health in an attempt to destigmatize mental health issues in sports and elsewhere, it has become common in the sports community to say that “[the] goal is to get people thinking about mental health the same way they think about physical health.”²⁸⁵ As this Article has shown, however, this goal is strikingly inconsistent with the ways in which U.S. sports leagues disclose athletes’ injuries: When the injury is “physical,” the report usually includes specific details about the nature of the injury and the body part involved; when the injury is “mental,” sports leagues cite “personal reasons” as the reason for the athlete’s absence. In this Article, we have argued that this discrepancy cannot be justified. The problem, we have argued, is that the current form of injury reports may convey the message that mental health issues have to do with athletes’ personal traits, as opposed to a multifaceted issue that can be affected by the leagues’ ways of operation.

Going forward, we argue that U.S. leagues should reevaluate the underlying rationales behind their injury reporting systems, as well as the designations used for reporting. Specifically, we suggest that athletes’ health information—either physical or mental—should not be disclosed at all to the public. But even if sports leagues decide to continue disclosing information about athletes’ health, they should change the ways in which mental health issues are addressed under the current system.

Exploring why sports leagues treat mental and physical conditions differently in the context of injury reporting also has the potential to generate insights that extend beyond the sporting arena. Specifically, this Article may contribute to the debate of

280. *Id.*

281. Bodie, *supra* note 251, at 742.

282. *See supra* note 118 and accompanying text.

283. *See supra* notes 70, 222 and accompanying text.

284. *See supra* notes 119–25 and accompanying text.

285. Weston, *supra* note 81, at 51.

whether public figures—such as presidential candidates and CEOs of public companies—should disclose information about their health. Disclosure proponents argue that such information is sometimes material to voters and investors.²⁸⁶ Disclosure skeptics, on the other hand, argue that information about one's health should be protected as private.²⁸⁷

In general, commentators agree that disclosure policies should strike a balance between an individual's privacy interest, on the one hand, and the public interest in disclosure, on the other.²⁸⁸ They disagree, however, as to how to strike this balance. In this Article, we do not take sides in this debate. Nor do we offer any comprehensive framework to assess disclosure of health information in non-sports contexts. Nevertheless, our analysis may advance the debate by focusing on a question that is often not addressed in the legal literature: What is considered "health information" for the purpose of disclosure? Our key argument is that any attempt to require individuals to disclose their health information should consider the complexity of distinguishing physical from mental health issues, as well as the problematic aspects of using the "personal reasons" designation to report mental health-related issues.

To be sure, there are stark differences between disclosure of health information in the sports context and such disclosures in other contexts. For example, although a broken bone may not dramatically affect the functioning of a company's CEO (and thus should not be disclosed even on disclosure proponents' terms), it would likely force an athlete to miss several games. When it comes to policy, these differences pertain to various aspects of the disclosure dilemma, including the audience for such disclosure,²⁸⁹ the impact on third parties,²⁹⁰ and the frequency of disclosure, among other differences.

However, in light of recent social and technological developments, it is becoming harder and harder to draw the line between sports betting and investing.²⁹¹ For example, Professor Karl Lockhart has described the rise of "event contracts"—"a way of aggregating participants' beliefs about future events" (such as the outcome of the Super bowl or an election), which he referred to as having "both gambling- and investing-like features."²⁹² Against the backdrop of the rapidly expanding arena of prediction markets

286. See sources cited *supra* note 21.

287. See Sánchez Abril & Olazábal, *supra* note 19.

288. See, e.g., Victoria Schwartz, *Disclosing Corporate Disclosure Policies*, 40 FLA. ST. U. L. REV. 487, 491 (2013) (noting the tension between disclosure and privacy); Lin, *supra* note 21, at 423 (pointing to the competing interests of disclosure and privacy); Sánchez Abril & Olazábal, *supra* note 19, at 1564 ("[D]isclosures regarding the health of top executives are particularly delicate, as they pin the CEO's personal privacy rights directly against investors' rights to information affecting the company.").

289. See generally Charles R. Korsmo, *The Audience for Corporate Disclosure*, 102 IOWA L. REV. 1581 (2017) (arguing that the content of corporate disclosure should be tailored to match the proper audience of such disclosure—sophisticated investors).

290. Brown, *supra* note 19, at 362.

291. Karl M.F. Lockhart, *Betting on Everything*, 66 B.C. L. REV. 2175, 2180–81 (2025).

292. *Id.* at 2187; see also Jake Conley, *The Gray Area Robinhood and FanDuel Are Using to Bring Sports Betting and Stock Trading Closer Together*, YAHOO! FIN. (Sep. 7, 2025), <https://finance.yahoo.com/news/the-gray-area-robinhood-and-fanduel-are-using-to-bring-sports-betting-and-stock-trading-closer-together-162615447.html>

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(in which gamblers can place bets on event contracts), Lockhart concludes that “many event contracts—especially sports and politics-related ones—and many financial products—like weather futures—should likely be placed in the same category” for the purpose of regulation.²⁹³

Moreover, disclosure of information about corporate executives is becoming similar to injury reports given the rise of “superstar CEOs”—CEOs who are perceived to have “the vision, charisma, superior leadership, or other exceptional qualities that make them uniquely valuable to their corporations.”²⁹⁴ Indeed, in the context of publicly traded companies, Professor Joan Heminway argues that disclosure of corporate executives’ health information may be warranted in situations where “the executive has unique attributes that benefit the corporation independent of his or her overall service availability and capabilities.”²⁹⁵ Such information may be particularly important, Heminway explains, when “the executive’s identity effectively is the corporation’s brand” or when the executive is “iconic.”²⁹⁶ In line with Heminway’s account, in Meta’s annual report for 2023, filed with the SEC, the company stated that its CEO Mark Zuckerberg participated in “various high-risk activities,” including combat and extreme sports, “which carry the risk of serious injury and death.”²⁹⁷ It further acknowledged that “[i]f Mr. Zuckerberg were to become unavailable for any reason, there could be a material adverse impact on our operations.”²⁹⁸ This report, which focused on an executive’s participation in sports, fits the above description of superstar CEOs and brings to mind the MVP (Most Valuable Player) title, often assigned to exceptional athletes.

robinhood-and-fanduel-are-using-to-bring-sports-betting-and-stock-trading-closer-together-162615447.html] [(“The worlds of sports betting and stock trading have never been more closely connected. And bringing these two industries together is one key product: event contracts.”); TY Rush, *FanDuel Will Soon Allow Stock Betting—As Line Between Wall Street and Sportsbooks Blurs*, FORBES (Aug. 21, 2025), <https://www.forbes.com/sites/tylerroush/2025/08/21/fanduel-will-soon-allow-stock-betting-as-line-between-wall-street-and-sportsbooks-blurs/> [<https://web.archive.org/web/20251227223448/https://www.forbes.com/sites/tylerroush/2025/08/21/fanduel-will-soon-allow-stock-betting-as-line-between-wall-street-and-sportsbooks-blurs/>] (“Bettors will soon be able to wager on market movements, inflation, the price of gas and gold on FanDuel as part of a partnership between the popular sports betting platform and the derivatives exchange CME Group, further narrowing the gap between sportsbooks and Wall Street.”); Deborah North, Brian Morris & Leila Mgaloblishvili, *Cleary Gottlieb Discusses Election Betting and Its Implications for Future Event Contracts*, CLS BLUE SKY (Nov. 18, 2024), <https://clsbluesky.law.columbia.edu/2024/11/18/cleary-gottlieb-discusses-election-betting-and-its-implications-for-future-event-contracts/> [<https://web.archive.org/web/20251227224027/https://clsbluesky.law.columbia.edu/2024/11/18/cleary-gottlieb-discusses-election-betting-and-its-implications-for-future-event-contracts/>].

293. Lockhart, *supra* note 291, at 2236.

294. Assaf Hamdani & Kobi Kastiel, *Superstar CEOs and Corporate Law*, 100 WASH. U. L. REV. 1353, 1356 (2023).

295. Heminway, *supra* note 21, at 763.

296. *Id.*

297. Meta Platforms, Inc., Annual Report (Form 10-K), at 38 (Feb. 1, 2024), <https://d18rn0p25nwr6d.cloudfront.net/CIK-0001326801/c7318154-f6ae-4866-89fa-f0c589f2ee3d.pdf> [<https://perma.cc/F9MQ-T55Y>].

298. *Id.*

Thus, while there are good reasons to design different disclosure regimes for different contexts, our analysis in this Article may have important policy implications for other social arenas. To the very least, we believe that the sports context may serve as a case study for examining how, if at all, to require public figures to disclose their health information.

**APPENDIX A: “NOT INJURY RELATED” ENTRIES IN NFL INJURY REPORTS
(2010–2024)**

Season	Number of “Not Injury Related” Entries²⁹⁹
2024	46
2023	37
2022	27
2021	68 ³⁰⁰
2020	57
2019	17
2018	26
2017	7
2016	10
2015	189
2014	187
2013	91
2012	71
2011	83
2010	31

299. Based on data from the NFL official website. Authors obtained a copy of full data analysis.

300. The list for 2021 includes 17 entries involving NFL player Deshaun Watson, who missed the entire 2021 season. See *supra* note 109.