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Hidden Consequences: Examining the Impact of NIL on Athlete Well-Being

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In the United States (US), a person's name, image, and likeness (NIL) are associated with the right of publicity. This right was established to acknowledge that celebrities and non-celebrities are entitled to control and protect their names, likenesses, and any distinguishable characteristics differentiating them from others in their respective trades (i.e., their marketable identity; Edwards, 1998). For an athlete, this right authorizes them to benefit commercially by partnering with companies as an endorser to sell products or services (Brison & Boyes, 2017). While this right has not been afforded to collegiate athletes due to the National Collegiate Athletic Association's (NCAA) position on amateurism, new legislation has created both opportunities and challenges for today's collegiate athlete that impact not only their athletic career but also their overall well-being.

According to the NCAA, collegiate athletes have been assumed to compete as amateurs. Therefore, an athlete loses amateur status and eligibility to compete in NCAA sanctioned competition if the athlete "uses [their] athletics skill (directly or indirectly) for pay in any form in that sport" (NCAA Bylaw 12.1.2, 2021, p. 63). This payment includes receiving compensation for a company's use of their NIL to promote a product or service. In 2009, Ed O'Bannon, a former UCLA men's basketball player, filed a lawsuit against the NCAA for the use of his likeness in *NCAA Basketball 09*, an EA Sports video game. Both a District Court as well as the US Court of Appeals for the Ninth Circuit, ruled in favor of O'Bannon. In 2016, the Supreme Court was petitioned by the NCAA to hear the case, but the request was denied (McCann, 2016; *O'Bannon v. NCAA*, 2014; 2015).

This decision set into motion a debate regarding whether collegiate athletes should be compensated for their NIL. In 2019, California Governor Gavin Newsom weighed in on the debate and signed The Fair Pay to Play Act to allow collegiate athletes in California to profit from their NIL. Although California's bill initially would not go into effect until January 1, 2023, thirteen states passed their own legislation with an effective date of July 1, 2021. A multitude of other states also enacted their own legislation with effective dates for later in 2021, 2022, and 2023 (SportsBizMiss Enterprises, 2021).

NIL legislation has allowed collegiate athletes to take an active role in their endorse-

ment and branding efforts. Specifically, collegiate athletes can use their name, image, or likeness to endorse products via various mediums and receive compensation (Mickles, 2021). Individual athletes' NIL value can vary by institution, and the institution's brand value has the potential to influence the value of its athletes' NIL (Kunkel et al., 2021). Thus, athletes have a vested interest in actively managing their brand, a job or life role that most of them are not familiar with assuming.

In the current landscape, many athletes will likely need to solve the issue of brand management, with many of them assuming the role themselves. Taking on this role will likely lead to even more investment in their athlete identity (i.e., role engulfment), which has negative consequences for the athlete (Hatteberg, 2020). Guided by the literature on role engulfment, this article investigates the hidden effects NIL may have on collegiate athletes and their well-being, along with various branding and legal implications.

Collegiate Athletes and Role Engulfment

Social identity theory argues that people come to see their whole selves in reference to various social roles, patterns, and interactions they hold across their relationships and social endeavors (Hogg et al., 1995; Stryker & Serpe, 1982; Turner, 1979). For example, a male college athlete's roles might include athlete, student, son, brother, teammate, roommate, and friend.

Within and outside of sport, research continues to support the contention that holding multiple roles is beneficial to an individual's mental and physical health (e.g., Hong & Seltzer, 1995; Waldron & Jacobs, 1989). As Thoits (2003) explains, "Generally, the more role identities individuals hold, the more purpose, meaning, behavioral guidance, and approving social feedback they have available, and thus, the better should be their mental health or general well-being" (p. 180). In other words, individuals tend to benefit from being 'well-rounded' rather than specializing deeply in any one role (Anderson & Dixon, 2019).

By contrast, a number of studies have examined how athletes often develop a highly salient and largely singular role as an athlete – a process known as role engulfment (Adler & Adler, 1991; Anderson & Dixon, 2019; Giulianotti, 2015). In college athletics, young people frequently enter college with a reasonably broad role set (e.g., athlete, student, club member, band member), their non-athlete roles are often engulfed by the college athletic environment, which soon dominates an athlete's time, actions, and social circles (Adler & Adler, 1991; Anderson & Dixon, 2019). The social isolation of college athletes is well-documented; rather than being socially integrated, athletes often find themselves secluded (Adler & Adler, 1985; Gragg, 2000; Greendorfer & Blinde, 1990; Riemer et al., 2000; Snyder, 1996). In her 1989 study of college athletics, Blinde concluded, "Both the demands of sport and the limited contact athletes have with peers alienate them from the rest of the student body – an outcome that indeed runs counter to the stated purposes of intercollegiate sport" (p. 115).

Indeed, the situation likely has been exacerbated since then, with increasing pressures for athletes to not only prioritize, but also immerse themselves in their sport and their team. In the name of "cohesion" and "necessary sacrifice" athletes continue to feel enormous pressures to see themselves as athletes first, or even athletes only. This can lead to numerous short- and long-term problems for these athletes in managing the competing time and energy demands from their multiple roles. Research is clear that when facing conflicting demands, people look for ways to resolve the conflict. This might involve making changes or reductions to some roles and associated goals, and/or focusing just on one central role while withdrawing from other roles (Anderson & Dixon, 2019; Miller & Kerr, 2003). The negative resulting outcomes from role engulfment (i.e., isolation, psychological and emotional difficulties, need for escape, and difficulty coping with role demands) are all associated with having a highly salient singular athlete role.

Collegiate Athletes as Brand Managers

With the passage of NIL legislation, many athletes will need to assume a new and challenging role of personal brand manager. This can include not only learning what it means to be a brand, but also how to create, develop and maximize themselves as brands (Lobpries et al., 2018). The notion of athletes as human brands was introduced by Thomson (2006) who defined human brands as “any well-known persona who is the subject of marketing communication efforts (e.g., actors, models, musicians, athletes; p. 104). The concept of an athlete brand has evolved to encompass not only the symbolic meaning but also the value an athlete accrues in “using their name, face or other brand elements in the market” (Arai et al., 2014, p. 97). These brand elements are an athlete’s athletic performance, their attractive appearance, and marketable lifestyle (Arai et al., 2013).

As their attractiveness and marketability increase, athletes have had to acquire skill and knowledge to manage themselves as brands (Arai et al., 2014). Such personal brand management is not necessarily new. In fact, studies have shown that female professional athletes have historically taken on the role of a brand manager (Lebel & Danylchuk, 2012; Lobpries et al., 2018). The adoption of this role was due to limited financial resources to hire an agent. Therefore, the responsibilities of managing their careers as well as their brands has fallen to the athlete themselves (Geurin-Eagleman & Burch, 2016; Lobpries et al., 2018).

Collegiate athletes have only been able to capitalize on building their brand for a short time. Like female athletes, resources may be limited, requiring the collegiate athlete to take on more day-to-day responsibilities associated with brand management and endorsements. This may result in more time and effort being placed into their athlete identity, squeezing out time and energy for other academic, social, and professional development opportunities (Anderson & Dixon, 2019). This engulfment can eventually lead to a number of negative consequences for their well-being, including social isolation, psychological difficulties, and stunted intellectual and emotional support and growth (Anderson & Dixon, 2019; Miller & Kerr, 2003). This is clearly not an ideal situation and represents a difficult trade-off for athletes in terms of opportunities and costs.

Though the passage of NIL legislation allows the athletes to engage in endorsement opportunities, the all-encompassing nature of also assuming a brand manager role may lead athletes to seek other means for capitalizing on their brand. One of the most likely avenues would be to outsource these responsibilities to a marketing representative or agent.

Collegiate Athletes and Sports Agents

The process of finding an agent to navigate NIL deals is not only about locating one, but also identifying the right agent at the right time (Ruxin, 2010). Agents with a variety of backgrounds and degrees will be available (Lipscomb & Titlebaum, 2001) to assist collegiate athletes with navigating the recent NIL legislation. Historically, a multitude of agents and agencies have sought out athletes for representation, specifically for professional contracts, (Ruxin, 2010). However, it is imperative that athletes “do their homework” on the qualifications, personality, and other characteristics of the agent with whom they wish to work.

To facilitate this process, both state and federal legislation has been enacted to regulate sport agent interactions with college and professional athletes. At the federal level, the Federal Trade Commission (FTC) created the Sports Agent Responsibility and Trust Act of 2004 (SPARTA) (15 U.S.C. § 7801-7807). At the state level, the Uniform Athlete Agents Act (UAAA) serves as the guideline for agent regulation. Although the laws can vary by state, most states require a sports agent to provide collegiate athletes with the relevant information needed to evaluate the prospective agent. Despite the regulations, the collegiate

athlete-sport agent relationship has been problematic. One of the earliest lawsuits involved two sports agents who signed 58 college football players to representation agreements. Players were instructed not to disclose the agreements to their institutions, which was a violation of NCAA guidelines. Once the athletes graduated, only two athletes honored the agreements; those who chose not to were personally threatened. Both agents were sentenced to jail time and a five-year probation (*United States v. Norby Walters et al.*, 1989). Recently, Duke University freshman (and now professional National Basketball Association player) Zion Williamson was involved in a lawsuit with Prime Sports, a company he signed with as a collegiate athlete to represent him for marketing services. Williamson alleged that Prime Sports falsely misrepresented the company as registered agents (*Williamson vs. Prime Sports*, 2019), which was a violation of the UAAA and North Carolina law. Williamson sought to void the contract, but Prime Sports countersued for breach of contract and \$100 million in damages (*Prime Sports v. Williamson, Creative Artists Agency et al.*, 2019). In 2021, a federal judge ruled in favor of Williamson and voided the contract (*Williamson v. Prime Sports*, 2021). Cases such as these are only a small representation of the potential issues collegiate athletes may face when dealing with agents. Even so, with the passage of NIL legislation, the importance of due diligence by college athletes is emphasized even more.

Conclusion

The different aspects of NIL have underlying consequences that will affect collegiate athletes in a variety of ways, some are not obvious, but will nevertheless have lasting impact on athlete well-being. While the central identity of an athlete is likely to remain, there are consequences to the added responsibilities of managing a personal brand. To assist athletes with navigating new terrain as brand managers, it is imperative that resources are made available for educational purposes to train the athletes and to reduce the time and effort they must dedicate solely to this endeavor, leaving space for other roles and college student activities. For instance, Texas A&M University has implemented AMPLIFY, a digital space where Aggie athletes can educate themselves on building their brand, engage in financial workshops, and much more (TAMU Athletics Communications, 2021).

Similar programs, such as the one at Texas A&M, have been developed at institutions around the country. Programs of this nature should be the standard athletic departments should strive to achieve. The education provided to athletes about various aspects of NIL will not only allow the athletes to further understand the process but may also result in reducing the added stress of managing a brand. When obstacles arise or questions need to be addressed, athletes can utilize resources offered by their athletic departments for assistance. In addition to the digital resource spaces, departments should employ staff members to assist athletes in educational matters of NIL. Relying on familiar members of the athletic department could provide comfort to college athletes as they maneuver this new chapter of their lives, especially with their first experience of working with an agent.

Jessop (2019) argued for stronger policies on sport agents by NCAA institutions and proposed a model to best protect NCAA student-athletes and to motivate compliance by sport agents. With the passage of NIL, this type of model is needed even more. Several states do not require marketing representatives to register with the Secretary of State (SportsBizMiss Enterprises, 2021). Although NCAA member institutions may require marketing agents to register with the schools, this means there may be no state licensing requirements for individuals seeking to work with college athletes as marketing representatives. Unfortunately, this can lead to lawsuits such as those previously mentioned where individuals take advantage of collegiate athletes.

In June 2021, the National Collegiate Athletic Association (NCAA) adopted an interim NIL policy. The policy provided the following guidance: 1) athletes can engage in activities in accordance with

their state law; 2) colleges and universities can help with any questions regarding interpreting the laws; 3) athletes can hire a representative for NIL activities; and 4) athletes must report any NIL activities (consistent with state law) to their school (Hosick, 2021). Ultimately, the NCAA's policy leaves its member institutions and state legislatures tasked with deciding how NIL issues will be handled (Romano, 2021).

As college athletes navigate the new NIL landscape, institutions, as well as the athletes themselves, must consider the possible consequences of these new opportunities. The ability of college athletes to now profit from their NIL can be exciting and rewarding for the athletes. However, these deals, and the relationships that ensue, should not be entered into lightly. Athletes and institutions need to carefully consider pursuing new opportunities and develop viable pathways for the preparation and planning needed to maximize and sustain athlete well-being. These pathways should foster the development of the athlete as a holistic person, capable of functioning as brand manager for both their personal and professional lives.

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