

# FLEX CEUs



## The Ethical Considerations in the Practice of Physical Therapy



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## Introduction

Ethics are defined as moral principles that govern a person's behavior or the conducting of an activity, and are skills that are continuously evolving throughout one's lifetime and career. They are shaped by life experience, situation, and professional experiences and education. There are some who find it difficult to differentiate between ethical and unethical actions. It is imperative to study ethics to give therapists the skills to be able to recognize an ethical decision and be able to deal with that situation ethically. Ethical behavior will often be behavior that is practiced without an audience, and it is important to train and condition ourselves to respond in the correct way without fail.

Ethics in Physical Therapy guide the practitioners behavior in regards to the practice of their art. The Code of Ethics is provided by the House of Delegates of the American Physical Therapy Association (APTA). There are multiple fields of ethical action, including individual, organizational, and societal expectations. When studying ethics in Physical Therapy, one must also take into consideration the five roles of the physical therapist (management of patients/clients, consultation, education, research, and administration), and the core values set forth by the APTA (accountability, altruism, compassion/caring, excellence, integrity, professional duty, and social responsibility). This course will explain each consideration and explore how the Physical Therapist and Physical Therapist Assistant can abide by these guidelines to provide the best, most compassionate and comprehensive care to their patients.

## Section 1

### *Five Roles of the Physical Therapist*

To follow the roles of the Physical Therapist means assuming the demands and responsibilities of professional authority by taking charge of the conditions which create and maintain patient safety and trust in the professional/patient relationship. The roles are guidelines to advise the practitioner in the daily practice of their profession.

- **Management of patients.** To manage patients refers to the planning and coordination of health care services appropriate to achieve the goal of medical rehabilitation. Medical case management may include, but is not limited to, care assessment, including the review of care of plans and implementation of necessary changes, and assistance in developing, implementing and coordinating a medical care plan with health care providers, as well as the patient and their family,

followed by evaluation of treatment results and implementation of necessary changes to a treatment plan to affect the desired outcomes.

- **Consultation.** A medical consultation by definition is a procedure whereby healthcare providers review patient history, examine the patient, and make recommendations as to appropriate care and treatment. This procedure should include discussing the case with other medical professionals, the patient themselves, and with applicable family or caregivers.
- **Education** includes not just the continuing education of oneself, but also of the patient and caregivers. Practitioners are responsible for furthering their own education, to keep abreast of new medical advancements and to also learn new techniques to better care for patients. Self education can be extended to education of coworkers and other medical professionals, by way of sharing what one another learns to improve care of patients. Therapists must also take great pains to educate their patients and the corresponding family members or caregivers. Education on patient care, exercise, safety, and other rehabilitation necessities is required to keep patients progressing in a timely and safe manner.
- **Research** is necessary to improve upon learned skills and to receive guidance in times of question. A physical therapist must always question the best avenue of treatment with their patient, as each patient will be unique in circumstances and require a tailored treatment. There will be times that a therapist must research new treatments or exercises, review case studies, or even just research a rare disorder they have not encountered before. Research is a vital part of implementing a comprehensive treatment plan.
- **Administration** is the management of healthcare. In this instance, it refers to managing the patients' care. Duties include to provide proper patient care with timely and regular appropriate appointments, manage the need for other professional medical interventions, oversee the correct care provided in terms of the plan of care, and continuously re-evaluate the need for changes in the plan of care or interventions provided.

## ***Core Values***

The core values adopted by the American Physical Therapy Association in 2019 by the House of Delegates define expected values for its members. The APTA has developed a self-assessment tool with sample behaviors for each of the seven core values, which will be provided below. The core values of Physical Therapy are at the heart of ethical

concerns. As physical therapists and assistants, we must hold ourselves and our fellow practitioners accountable for following the values that have been provided to help guide us in the best care for our patients.

Core Values	Self Assessment Examples
<p><b>Accountability</b> is defined as the active acceptance of the responsibility for the diverse roles, obligations, and actions of the physical therapist including self regulation and other behaviors that positively influence patient/client outcomes, the profession and the health needs of society.</p>	<ul style="list-style-type: none"> <li>● Be responsive to patients' needs and goals.</li> <li>● Seek and respond to feedback from patients, family, and other clinicians.</li> <li>● Acknowledge and accept the consequences of your own actions.</li> <li>● Adhere to the code of ethics, standards of practice, and policies/ procedures that govern the conduct of professional activities.</li> <li>● Communicate accurately, in a timely manner, to others such as patients and other health care providers about professional activities.</li> <li>● Assume active responsibility for your own growth, such as learning and change as necessary.</li> <li>● Active participation in reaching the goals of your patients/clients.</li> <li>● Educate students in a way that facilitates the pursuit of learning.</li> <li>● Seek continuous improvement in quality of care.</li> </ul>

**Altruism** is the responsibility to place the needs of the patient/client ahead of other concerns, including the physical therapist's self interest.

- Provision of pro-bono services to the financially disadvantaged.
- Provision of physical therapy services to underserved and underrepresented populations.
- Provision of services that go beyond the expected standards of practice.
- Completion of patient/client care and professional responsibility prior to personal professional needs.

**Compassion/Caring.** Compassion is the sympathetic concern for the sufferings of others, a desire to identify with someone and is a precursor for caring. Caring in this instance is the concern, empathy, and consideration for the needs and values of others. To evidence compassion and caring, take the following into consideration.

- Attempt to understand the socio-cultural, economic, and psychological influences on an individual's life in their environment.
- Do your best to understand a patient's perspectives.
- Be an advocate to fulfill patient's needs.
- Communicate effectively, in written and spoken word, with all involved. Take into consideration individual differences in learning styles, language, and cognitive abilities.
- Design all patient programs, interventions, and education in ways that are congruent with patient needs.
- Empower and encourage patients to achieve the highest level of function and independence possible and to exercise self-determination in their care.
- Focus on achieving the greatest well-being and the highest potential for a patient.
- Recognize and refrain from acting on your own personal social, cultural, gender, and sexual biases.
- Embrace and explore the patient's emotional and psychological aspects of care.
- Attend to the patient's personal needs and comforts.
- Demonstrate respect for others and remember that all are unique and valuable.



<p><b>Excellence</b> in physical therapy practices means to consistently use current knowledge and theory while understanding personal limits, integrating judgment and the patient perspective, embracing advancement, challenging mediocrity, and working toward the development of new knowledge.</p>	<ul style="list-style-type: none"><li>● Demonstrate investment in the physical therapy profession.</li><li>● Internalize the importance of using multiple sources of evidence to support the implementation of professional practice and decisions.</li><li>● Demonstrate intellectual humility in professional and interpersonal relations.</li><li>● Participate in integrative and collaborative practice to promote high quality health and educational outcomes</li><li>● Demonstrate high levels of knowledge and skill in all professional aspects.</li><li>● Practice a tolerance for ambiguity.</li><li>● Engage in continuing education opportunities throughout one's career to better understand and expand knowledge.</li><li>● Share newfound knowledge with other professionals and with patients.</li><li>● Contribute to the development and shaping of excellence in professional roles.</li></ul>
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**Integrity** is the determined adherence to high ethical principles and professional standards, including honesty, fairness, following through with what one has said they will do, and being forthcoming about why you do what you do.

- Abide by the rules, regulations, and laws applicable to physical therapy.
- Adhere to the highest standards provided, and seek to improve.
- Articulate and internalize stated ideals and professional values.
- Use the power entrusted to you judiciously.
- Resolve dilemmas with concern to a consistent set of core values.
- Be honest and trustworthy.
- Take responsibility to be an integral part in the continuing management of patients.
- Know your own limitations and act accordingly.
- Confront harassment and bias amongst yourselves and others.
- Recognize the limits of professional ability and make the appropriate referrals to other disciplines.
- Choose employment situations that are congruent with practice values and professional ethical standards.
- Act on the basis of professional values even when the results of such behavior may place oneself at risk.

<p><b>Professional duty</b> is the commitment to meeting one's obligations to provide effective physical therapy services to patients, to serve the profession, and to positively influence the health of society as a whole.</p>	<ul style="list-style-type: none"><li>● Practitioners have a duty to provide optimal care, which means that clinical practice and decision-making, while meeting the needs of individual patients, is effective, reliable and safe. National, state, and professional organizations establish standards and requirements based on evidence of best practices.</li><li>● Facilitating each individual's achievement of goals for function, health, and wellness.</li><li>● Preserve the safety, security, and confidentiality of individuals in all professional contexts.</li><li>● Be involved in professional activities beyond the practice setting.</li><li>● Promote the profession of physical therapy.</li><li>● Mentor other professionals and patients to realize their personal potential.</li><li>● Take pride in the physical therapy profession.</li></ul>
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**Social responsibility** is the promotion of a mutual trust between the profession and the larger public that necessitates responding to societal needs for health and wellness. To promote social responsibility, pay attention to the following points.

- Advocate for the health and wellness needs of society, to include access to health care and physical therapy services.
- Promote cultural competence within the profession and the larger public.
- Promote social policies that affect the function, health, and wellness needs of patients.
- Ensure that existing social policies are in the best interests of the patients.
- Advocate for changes in laws, regulations, standards, and guidelines that affect physical therapist service provision.
- Promote and engage in community volunteerism.
- Participate in political activism in the best interests of the public at large.
- Participate in the achievement of societal health goals.
- Understand current community wide, nationwide and worldwide issues and how they impact society's health and well-being and the delivery of physical therapy.
- Provide leadership and guidance in the community.
- Participate in collaborative relationships with other health practitioners and the public.
- Ensure the blending of social justice and economic efficiency of services.

As you can see, the core values of physical therapy are simple at first glance but contain many varied nuances. These values must be consistently reviewed and improved upon to provide the best care possible. Please utilize this self assessment tool to improve your personal performance for your patients. Professional core values are further shaped by experiences, and each therapist will experience the application of said values in their own way.

### ***Practice Act for Physical Therapy***

Physical Therapists and Assistants are licensed in all states and territories of the United States. They are required to adhere to the standards, laws, rules, and regulations set forth in the state practice act. A physical therapy **practice act** is a statute defining the scope and practice of physical therapy within the jurisdiction, outlining licensing requirements for Physical Therapists and Physical Therapist Assistants, and establishing penalties for violations of the law. The Model Practice Act for Physical Therapy is a standard resource and set of recommendations provided to each state, and recommends that physical therapy practice acts require physical therapists to adhere to the recognized standards of ethics of the physical therapy profession as established by rules and regulations therein. The Model Practice Act (MPA) is the preeminent standard and most effective tool available for revising and modernizing physical therapy practice acts. The Practice Acts, while state specific, are continuously updated as needed to protect our patients and the public. The Model Practice Act is provided to each state legislature and members of the Federation of State Boards of Physical Therapy as a basic general guideline and resource. The actual legislative language will vary from jurisdiction to jurisdiction.

### ***Code of Ethics for the Physical Therapist***

The Code of Ethics was determined by the House of Delegates of the American Physical Therapy Association. It is based on the aforementioned five roles of the Physical Therapist and the seven core values of Physical Therapy. The purpose of the Code of Ethics according to the APTA is to;

1. Define the ethical principles that form the foundation of physical therapist practice in patient/client management, consultation, education, research, and administration.
2. Provide standards of behavior and performance that form the basis of professional accountability to the public.

3. Provide guidance for physical therapists facing ethical challenges, regardless of their professional roles and responsibilities.
4. Educate physical therapists, students, other health care professionals, regulators, and the public regarding the core values, ethical principles, and standards that guide the professional conduct of the physical therapist.
5. Establish the standards by which the American Physical Therapy Association can determine if a physical therapist has engaged in unethical conduct.

The principles of the Code of Ethics as set forth on the APTA website are as follows;

**Principle Number 1:** Physical therapists shall respect the inherent dignity and rights of all individuals. (Core Values: Compassion, Integrity)

- A. Physical therapists shall act in a respectful manner toward each person regardless of age, gender, race, nationality, religion, ethnicity, social or economic status, sexual orientation, health condition, or disability.
- B. Physical therapists shall recognize their personal biases and shall not discriminate against others in physical therapist practice, consultation, education, research, and administration.

Simply put, although biases exist and can be difficult to overcome, a therapist or healthcare practitioner cannot allow these biases to influence their actions or the quality of their treatment.

Respect is an interestingly diverse topic. Respect should be assessed individually and followed through with compassion. For example, removing ones' shoes is respectful to enter someone's home in some cultures, and in others, direct eye contact is disrespectful.

**Principle Number 2:** Physical therapists shall be trustworthy and compassionate in addressing the rights and needs of patients/clients. (Core Values: Altruism, Compassion, Professional Duty)

- A. Physical therapists shall adhere to the core values of the profession and shall act in the best interests of patients/clients over the interests of the physical therapist.

- B. Physical therapists shall provide physical therapy services with compassionate and caring behaviors that incorporate the individual and cultural differences of patients/clients.
- C. Physical therapists shall provide the information necessary to allow patients or their surrogates to make informed decisions about physical therapy care or participation in clinical research.
- D. Physical therapists shall collaborate with patients/clients to empower them in decisions about their health care.
- E. Physical therapists shall protect confidential patient/ client information and may disclose confidential information to appropriate authorities only when allowed or as required by law.

Principle 2 requires the physical therapist to respect patient autonomy. This means that the therapist is required to communicate to the patient the findings of the physical therapist examination, evaluation, diagnosis, and prognosis. The physical therapist shall use sound professional judgment in informing the patient of any substantial risks of the recommended examination and intervention and shall collaborate with the individual to establish the goals of treatment and the plan of care. The therapist shall also value all patient input, including consent, modification, or refusal of treatment. The therapist should be trustworthy, informative, and care for their patient and their personal outcomes over the interest of the physical therapist themselves.

**Principle Number 3:** Physical therapists shall be accountable for making sound professional judgments. (Core Values: Excellence, Integrity)

- A. Physical therapists shall demonstrate independent and objective professional judgment in the patient's/client's best interest in all practice settings.
- B. Physical therapists shall demonstrate professional judgment informed by professional standards, evidence (including current literature and established best practice), practitioner experience, and patient/client values.

- C. Physical therapists shall make judgments within their scope of practice and level of expertise and shall communicate with, collaborate with, or refer to peers or other health care professionals when necessary.
- D. Physical therapists shall not engage in conflicts of interest that interfere with professional judgment.
- E. Physical therapists shall provide appropriate direction of and communication with physical therapist assistants and support personnel.

The physical therapist should again keep the patients best interests at heart. Proper communication between therapist, patient, and other medical professionals is necessary to provide the best of care. Judgments should be made upon systematic review to improve and change the plan of care as necessary to be able to progress the patient. If the therapist does not feel they are able to provide the best or most comprehensive care, they are obligated to refer someone to the appropriate professional. This may be an occupational or speech therapist, an orthopedic surgeon (via the proper channels), or sometimes a psychiatric referral may be necessary. The whole of a patient must be cared for, not just the physical body. Conflicts of interest should be avoided, such as promoting products or services that the therapist has some sort of interest in. When a therapist is promoting something for themselves they are thinking of themselves first, not the patient.

**Principle Number 4:** Physical therapists shall demonstrate integrity in their relationships with patients/clients, families, colleagues, students, research participants, other health care providers, employers, payers, and the public. (Core Value: Integrity)

- A. Physical therapists shall provide truthful, accurate, and relevant information and shall not make misleading representations.
- B. Physical therapists shall not exploit persons over whom they have supervisory, evaluative or other authority (eg, patients/clients, students, supervisees, research participants, or employees).
- C. Physical therapists shall discourage misconduct by health care professionals and report illegal or unethical acts to the relevant authority, when appropriate.



- D. Physical therapists shall report suspected cases of abuse involving children or vulnerable adults to the appropriate authority, subject to law.
- E. Physical therapists shall not engage in any sexual relationship with any of their patients/clients, supervisees, or students.
- F. Physical therapists shall not harass anyone verbally, physically, emotionally, or sexually.

Interpretation of Principle 4 addresses the need for integrity in relationships. This is not limited to relationships with patients and clients but includes everyone physical therapists come into contact with professionally. This includes patients, family, caregivers, and other medical professionals.

Principle 4 is about integrity in relationships, such as a person in a position of power not taking advantage of that position in regards to other people, be they coworkers, students, children, or the disadvantaged. This can be construed in terms of not harassing someone sexually, physically, or verbally, and to not engage or be privy to any type of abuse, and to report those who are involved in such abusive behaviors. This principle encourages professionals not to engage in misconduct nor to tolerate others to engage in misconduct. Corporations and organizations should have regular education to inform employees of state, federal, and company specific procedures, and professionals should be held accountable for any misconduct immediately.

**Principle Number 5:** Physical therapists shall fulfill their legal and professional obligations. (Core Values: Professional Duty, Accountability)

- A. Physical therapists shall comply with applicable local, state, and federal laws and regulations.
- B. Physical therapists shall have primary responsibility for supervision of physical therapist assistants and support personnel.
- C. Physical therapists involved in research shall abide by accepted standards governing protection of research participants.
- D. Physical therapists shall encourage colleagues with physical, psychological, or substance-related impairments that may adversely impact their professional responsibilities to seek assistance or counsel.

- E. Physical therapists who have knowledge that a colleague is unable to perform their professional responsibilities with reasonable skill and safety shall report this information to the appropriate authority.
- F. Physical therapists shall provide notice and information about alternatives for obtaining care in the event the physical therapist terminates the provider relationship while the patient/client continues to need physical therapy services.

The points of Principle 5 concern therapists holding themselves and others accountable for their actions. A therapist must recognize when they or another are unable to perform their duties properly, be it due to substance abuse, mental issues, incompatibility, bias, or inability due to other factors. A therapist who is unable to perform their duties shall seek counsel as appropriate, or should recommend to another therapist who seems to be having such issues to seek counsel. If a therapist recognizes that they can no longer be the best provider for a patient due to incompatibility, inability to provide enough care, or any other issue, they are required to provide other resources to continue the patient's care.

**Principle Number 6:** Physical therapists shall enhance their expertise through the lifelong acquisition and refinement of knowledge, skills, abilities, and professional behaviors. (Core Value: Excellence)

- A. Physical therapists shall achieve and maintain professional competence.
- B. Physical therapists shall take responsibility for their professional development based on critical self-assessment and reflection on changes in physical therapist practice, education, health care delivery, and technology.
- C. Physical therapists shall evaluate the strength of evidence and applicability of content presented during professional development activities before integrating the content or techniques into practice.
- D. Physical therapists shall cultivate practice environments that support professional development, lifelong learning, and excellence.

Therapists are required to grow with their profession, to improve their knowledge set, and continue to learn new techniques.

**Principle Number 7:** Physical therapists shall promote organizational behaviors and business practices that benefit patients/clients and society. (Core Values: Integrity, Accountability)

- A. Physical therapists shall promote practice environments that support autonomous and accountable professional judgments.
- B. Physical therapists shall seek remuneration as is deserved and reasonable for physical therapist services.
- C. Physical therapists shall not accept gifts or other considerations that influence or give an appearance of influencing their professional judgment.
- D. Physical therapists shall fully disclose any financial interest they have in products or services that they recommend to patients/clients.
- E. Physical therapists shall be aware of charges and shall ensure that documentation and coding for physical therapy services accurately reflect the nature and extent of the services provided.
- F. Physical therapists shall refrain from employment arrangements, or other arrangements, that prevent physical therapists from fulfilling professional obligations to patients/clients.

Principle seven concerns being good stewards of a patient's resources, not overbilling, providing the care a patient pays for, documenting properly to reflect care given, and not recommending services or items they have a personal or financial interest in without revealing said interest.

**Principle Number 8:** Physical therapists shall participate in efforts to meet the health needs of people locally, nationally, or globally. (Core Value: Social Responsibility)

- A. Physical therapists shall provide pro bono physical therapy services or support organizations that meet the health needs of people who are economically disadvantaged, uninsured, and underinsured.
- B. Physical therapists shall advocate to reduce health disparities and health care inequities, improve access to health care services, and address the health, wellness, and preventive health care needs of people.

- C. Physical therapists shall be responsible stewards of healthcare resources and shall avoid overutilization or underutilization of physical therapy services.
- D. Physical therapists shall educate members of the public about the benefits of physical therapy and the unique role of the physical therapist.

Principle eight addresses the responsibility to provide care for all even at a pro bono level to reduce inequality between health disparities and care given. Education should be provided to the public about the benefits of physical therapy and the role of the therapist and assistant in patient care. A therapist should be a public advocate to support and assist all people, including the monetarily disadvantaged.

The Code of Ethics cannot possibly cover every possible ethical quandary a practitioner may be faced with. In times of ethical issues, professionals are encouraged to reach out to someone with their concerns and questions. Every circumstance is different and needs to be treated individually.

### ***Individual, Societal, and Organizational Expectations***

A study performed in 2016, with the aid of 20 practicing professionals, took an in-depth look at values and the professional. It was found that compassion/caring, accountability, and integrity were present in most beginning therapists. Many state that these attributes contributed to their desire to become a physical therapist, and the drive to be the best therapist they could be. Participants of this study indicate that personal values become intertwined with the professional values early on in the shaping of their professional identity. One such professional in this study stated, “My personal values are my professional values.” So it seems that individual and organizational expectations are enmeshed with one another.

It was also discovered that core values were integrated into practice independent of the practice setting and various career paths, meaning that there was little discrepancy between settings such as acute, outpatient, or skilled nursing facilities. Core values were present in all settings and were implemented to best ability by most practitioners.

There seems to be a common theme that social responsibility was not integrated as well into the practice. Therapists noted that their societal duties were largely performed relating to their job, not necessarily on their own time of their own

volition. Revisions of the Code of Ethics specifically address the societal obligations of the Physical Therapy profession. See Principle 8: Physical Therapists shall participate in efforts to meet the health needs of people locally, nationally, or globally. This is imperative to grow as a therapist and clinician. It has been said that there are three successive and overlapping periods in the evolution of physical therapy ethics, self identity, patient focused identity, and an emerging period of societal identity. Self identity is usually present upon entry into the field, although it is susceptible to change and improvement during the professional growth period. Patient focused identity grows as one is focused on providing what the patient needs and improving the therapists' ability to help the patient improve and become more independent.

Societal identity is the continuously evolving and perhaps more difficult to entertain notion of attempting to be more involved in complete societal betterment, through volunteering, pro bono work, or other non profit work that may not even be related to the field of physical therapy. It is imperative to focus beyond the individual to include communities and populations. Please see the section on fraud, abuse, and waste for additional considerations.

### ***Ethics, Morals, and Professionalism in Physical Therapy***

Merriam Webster defines professionalism as “the conduct, aims, or qualities that characterize or mark a profession or a professional person,” and also “the following of a profession (such as athletics) for gain or livelihood.” Ethics are the principles of conduct governing an individual or group. Ethics and morals are typically used interchangeably, though there should be some distinction in how they are used.

Morals are one's particular values concerning what is right and what is wrong, sometimes referred to as a personal compass. For example, it would be morally wrong to help someone cheat on a test. Ethics, on the other hand, are formed by an external group and are relied upon to guide us in a more social setting with morals guiding the way. Professionalism incorporates ethics and morals to perform adequately and admirably in a social setting. It is required to evidence quality in work and interactions with clients. To act in a professional, ethical way, adhere to the following guidelines:

- **Excellence.** Professionals should strive to perform their duties to the best of their abilities, always adapting, changing, and improving upon their methods.

- **Trustworthiness.** Professionals should evidence that they are able to be trusted to have the patients' best interests at heart, to perform their duties best as they can, to keep confidence and be a source of support, information, and education.
- **Accountability.** One should take responsibility for their actions, and the outcomes of such actions. Accountability shows a trustworthy person guided by strong morals, as this means they are willing to face the consequences of their own actions.
- **Respect and Courtesy.** Strive to be well mannered, polite, and friendly to all you come in contact with. Be considerate of others' limitations, feelings, and wishes.
- **Honesty.** Honesty is a moral and ethical implication as well. An honest person is transparent and straightforward, open in communication. Honesty denotes fairness, sincerity, confidence in those being led, and builds trust.
- **Competence.** It is expected that someone in a position of authority be knowledgeable. It is the responsibility of professionals to continually improve their skill sets and performance.
- **Act ethically and morally.** Follow your internal guides as well as the generally accepted code of conduct or rules.
- **Integrity.** Integrity is to act in a way that portrays honesty and strong principles.
- **Keep confidence and HIPAA.** Do not share private information with anyone unless released to do so by the patient, or to a legal guardian or caregiver. Only provide information to other medical staff as necessary, not as a way to gossip or speculate. This is in line with being trustworthy and respectful.
- **Lead by example.** Act in an upright way that others can follow and use to base their own values on.

As you can see, the marks of a professional align strongly with ethical obligations, expectations, and the roles of the physical therapist. All concerns are interconnected and should be revisited to ensure compliance regularly, as a team and an individual. Professionals with ethical behavior are sought after in every line of work, and such characteristics are guaranteed to further a career.

## ***Section 1 Summary***

When referring to ethics in Physical Therapy, there are many considerations. One must take into account personal issues such as morals, professionalism, and individual expectations, while also considering the societal and professional obligations. The Core Values and Code of Ethics provided by the American Physical Therapy Association should be referenced when in doubt or in need of guidance. A therapist should be familiar with all the basic information described herein and able to use this guide as a reference to ensure they are providing the best care of their abilities.

## ***Section 1 Key Concepts***

- There are Five Roles of the Physical Therapist. They are management of patients, consultation, education, research, and administration.
- There are Seven Core Values of Physical Therapy. They are accountability, altruism, compassion/caring, excellence, integrity, professional duty, and social responsibility.
- The Code of Ethics was determined by the House of Delegates of the American Physical Therapy Association. It is based on the Five Roles of the Physical Therapist and the Seven Core Values of Physical Therapy. There are eight Principles in the Code of Ethics with various sub points.
- Individual, Societal, and Organizational concerns must be considered. Of these, it seems that Societal concerns are often the most difficult and oft neglected.
- To adhere best to moral, ethical, and professional obligations, strive for excellence, trustworthiness, accountability, respect, honesty, competence, and integrity in all that you do.

## ***Section 1 Key Terms***

**Accountability** - the fact or condition of being accountable; responsibility

**Altruism** - the belief in or practice of disinterested and selfless concern for the well-being of others.

**Caring** - displaying kindness and concern for others.

**Collaborate** - to work jointly on an activity, especially to produce or create something, to communicate with.

**Compassion** - sympathetic pity and concern for the sufferings or misfortunes of others.

**Confidential** - entrusted with private or restricted information.

**Dignity** - the state or quality of being worthy of honor or respect

**Ethics** - moral principles that govern a person's behavior or the conducting of an activity.

**HIPAA** - Health Insurance Portability and Accountability Act, a 1996 Federal law that restricts access to individuals' private medical information.

**Integrity** - the quality of being honest and having strong moral principles; moral uprightness.

**Misconduct** - unacceptable or improper behavior, especially by an employee or professional person.

**Morals** - a person's standards of behavior or beliefs concerning what is and is not acceptable for them to do.

**Practice Act** - a statute defining the scope and practice of physical therapy within the jurisdiction, outlining licensing requirements for Physical Therapists and Physical Therapist Assistants, and establishing penalties for violations of the law. Actual legislation and wording will vary by jurisdiction.

**Professional duty** - the competence or skill expected of a professional, and the obligation to uphold responsibilities

**Social Responsibility** - is the promotion of a mutual trust between the profession and the larger public that necessitates responding to societal needs for health and wellness.



## Section 2

### *Fraud, Waste, and Abuse*

The APTA has written a booklet titled “Preventing Fraud, Abuse, and Waste: A Primer for Physical Therapists”, which should be reviewed to assure that everyone is aware of fraud and abuse laws and able to avoid risky situations. Fraud, abuse, and waste has been reported by the National Academy of Medicine to result in a \$765 billion dollar per year loss annually, with \$210 billion of that total attributed to unnecessary services, \$190 billion to excessive administrative costs, \$130 billion to inefficiently delivered services, \$105 billion to excessive prices, \$75 billion to fraud, and \$55 million to missed prevention opportunities. Fraud, abuse and waste results in overutilization of services, increased payor cost, corruption of medical decision making, promotion of unfair competition, and of course harm to the patient. They can put patients at risk by exposing them to unnecessary or inflated expenses, and can take money away from necessary healthcare.

Fraud can include knowingly billing for services not provided, altering claim forms to receive more money, receiving kickbacks, and falsifying documentation.

Abuse can be billing for services that are not medically necessary, billing for services that do not meet professional standards of practice, or unbundling services and billing for them. Unbundling something would mean for someone to charge separately for electrodes, which are considered part of the payment for electrical stimulation.

Examples of waste include performing services when there are less costly services available, ordering unnecessary tests to protect against liability, failing to coordinate care that results in hospital readmission, or duplications of tests or services already provided.

There are numerous laws in place to prevent fraud and abuse. According to the APTA, the most relevant and their descriptions are:

- **False Claims Act** - according to this act, it is illegal to submit false claims or use a false record to obtain payment from the Medicare or Medicaid programs. The penalties for violation of this law are significant—they can be as high as \$22,000 per claim, plus 3 times the damages sustained by the government. The government may also exclude providers from future participation in any federal payment program. Under the False Claims Act, there is a strong incentive for whistleblowers to report fraud that they have witnessed to the government, since they can receive up to 30% of the recovery. There have been cases in which whistleblowers received millions of dollars. Whistleblowers are protected from repercussions by law.

- One such federal case is US v Mackby. In this instance, a man billed for services under his father's provider number. His father was located in another state entirely. The government determined that the damages for the 111 claims filed were \$58,151.64 and multiplied this number by 3 to get triple damages. They imposed a penalty of \$5,000 for each claim, resulting in a total amount of \$555,000. When added to the triple damages, the total amount owed was \$729,454.92.
- **Federal Anti-Kickback Statute** - prevents anyone from knowingly and willfully offering or receiving a form of payment in return for referring a patient to another provider for services covered by Medicare or Medicaid. Payment can include cash or gifts. Penalties under the Anti-Kickback Statute include prison sentences, fines, and penalties up to \$50,000 per kickback and 3 times the amount of the remuneration.
- **Physician Self-Referral Law** - Also known as the Stark Law, this prohibits physicians from referring Medicare and Medicaid patients for certain designated health services to entities in which that physician has a financial relationship, unless an exception applies. To determine if a violation is present, there must first be a referral payable by Medicare. If so, does the referrer have some sort of financial relationship with the practice the patient was referred to? This would constitute a violation unless an exception was evident. There is an exception if the practice is located in a rural area, or an exception referred to as the "in-office ancillary services" that enables ownership as long as the practice is structured in a manner that satisfies certain criteria set forth by the Physician Self-Referral Law.
- **Exclusion Authorities** - The Department of Health and Human Services is required to exclude health care providers and suppliers who have been convicted of certain crimes from participation in all federal health care programs such as Medicare, Medicaid, TRICARE, and the Veterans Health Administration. These programs will not pay for items or services that these excluded providers furnish, order, or prescribe. The crimes include:
  - Medicare fraud
  - Patient abuse or neglect
  - Felony convictions for other health care-related fraud, theft, or other financial misconduct

- Felony convictions for unlawful manufacture, distribution, prescription, or dispensing of controlled substances
- **Civil Monetary Penalty Law** - States that the government may seek civil monetary penalties (CMPs) for a variety of conduct, and different amounts of penalties and assessments may be authorized based on the type of violation at issue. Penalties range from \$10,000 to \$50,000 per violation. CMPs can also include an assessment of up to 3 times the amount claimed for each item or service, or up to 3 times the amount of remuneration offered, paid, solicited, or received.

There are also fraud and abuse issues to be considered when attempting to help patients. Physical therapists may be inclined to waive deductibles and copays or offer free services for patients who are low income. Although this sounds generous and helpful, this could be considered a violation of anti-kickback laws. This could be considered an attempt to influence customers to be more inclined to come to your practice instead of visiting others.

For this reason providing free and discounted services and waiving coinsurance or deductibles is generally prohibited. However, it is allowed if certain conditions are met. The Office of the Inspector General and the Department of Health and Human Services have issued guidance acknowledging that discounts to uninsured and underinsured patients is acceptable in certain circumstances.

The exception allows discounts and waivers of copays if:

- The provider does not advertise the discount or waiver
- The provider does not routinely waive copays and discount care
- The provider shows extensive efforts were made to collect money from the patient
- The patient meets federal poverty guidelines or facility-specific poverty/ catastrophic guidelines

It is advisable for practices or corporations to have a specific set of guidelines that should be applied uniformly to all patients that details the requirements for someone to qualify to meet poverty guidelines or catastrophic events and receive the discounts or waivers available.

To protect against the risk of fraud, abuse, and waste and to ensure high-quality care, physical therapists should incorporate clinical practice guidelines, compliance programs, and **evidence-based patient care** decisions when determining appropriate health care for specific conditions.

Compliance programs are mandated by the Affordable Care Act for Medicare and Medicaid providers to help avoid any activities that could be construed as fraud, abuse, or waste. The Office of the Inspector General has provided seven elements that should form the basis of a compliance program.

The seven elements that should be included in compliance programs are as follows;

- Developing and distributing written policies, procedures, and standards of conduct to prevent inappropriate conduct.
- Designation of a **compliance officer** who has responsibility for this area. This does not have to be a full-time job, particularly if you are in a small practice.
- Providing effective education and training programs for your staff regarding compliance, coding, and billing.
- Establishing open lines of communication for reporting compliance concerns. This could include a hotline to receive complaints.
- Having a system in place to respond to any allegations of improper conduct, including disciplinary action.
- Performing internal evaluation and audits to monitor compliance.
- Investigating and remediating any problems that are identified.

The top compliance issues in physical therapy seem to be services not medically necessary, services not provided or documented, unbundling or upcoding, time documentation inconsistent with service billed, inappropriate use of personnel, provider identification numbers misused, care below accepted standards, and waiving of copays or deductibles. Therapists tend to see themselves as caregivers first, and focus less on proper documentation or procedural compliance. This is an issue in proper reimbursement and avoiding fraud and waste.

## ***Preventing fraud, abuse, or waste in the therapy field***

The American Physical Therapy Association launched the Integrity in Practice Campaign in 2014 in an effort to eliminate fraud, abuse, and waste and position physical therapy as a leader in patient oriented care. Integrity in Practice was implemented to promote high quality of care by making resources available to therapists to encourage and promote evidence-based practice, ethics, professionalism, and to prevent fraud, abuse, and waste.

### ***Campaign Goals of Integrity in Practice***

- Demonstrate leadership in the health care profession in the effort to eliminate fraud and abuse and partner with like-minded stakeholders in the profession.
- Educate PTs, physical therapist assistants (PTAs), and students of physical therapy on how to avoid regulatory pitfalls and reduce risk of audits and returned payments as well as how to take proactive steps to prevent fraud and abuse so they can get back to the business of delivering value and quality in physical therapist practice.
- Advocate on behalf of PTs and the profession to reduce or prevent further burdensome regulation and oversight, and preserve freedom to practice.
- Provide solutions to the problems of fraud and abuse.
- Protect the excellent reputation of physical therapist practice and shine a positive light on the profession

The resources included in the Integrity in Practice Campaign include:

- Articles featured in member publications, such as “Addressing the Biggest Threat to Physical Therapy” (PT in Motion, February 2014). [http://integrity.apta.org/uploadedFiles/Integrityaptaorg/About\\_Us/Campaign/PTinMotionFeb2014\\_AddressingleBiggestThreatToPhysicalTherapy.pdf](http://integrity.apta.org/uploadedFiles/Integrityaptaorg/About_Us/Campaign/PTinMotionFeb2014_AddressingleBiggestThreatToPhysicalTherapy.pdf)
- Seminars, audio conferences, and webinars include a course free to both members and nonmembers developed with the help of regulators, attorneys, and auditors titled “Navigating the Regulatory Environment: Ensuring Compliance While Promoting Professional Integrity.” <http://www.apta.org/Courses/Online/NavigatingCompliance/>

- Documentation Guidelines <http://integrity.apta.org/Documentation/>
- Best Practices <http://integrity.apta.org/BestPractices/>
- An instructional booklet, Preventing Fraud, Abuse, and Waste: A Primer for Physical Therapy, which we have referenced elsewhere in this presentation, provides information on how to comply with relevant laws and regulations by identifying risk areas that could lead to potential liability. Intended for all PTs, the booklet includes an explanation of fraud, abuse, and waste and may be especially useful to PT education programs. <http://integrity.apta.org/Primer/>
- A PSA ad-style campaign with case examples summarizes real-life situations from various practice settings where well-intentioned, honest PTs find themselves at risk of committing fraud or abuse. <http://integrity.apta.org/AboutUs/Campaign/Ads/>

List of Additional Resources for fraud, abuse, and waste:

- Health Care Administrators Association (HCAA) <http://www.hcaa.org/>
- Health Care Compliance Association (HCCA) website <http://www.hcaa.org/>
- Society of Corporate Compliance and Ethics (SCCE) website <http://www.corporatecompliance.org/>
- American Health Lawyers Association (AHLA) website <http://www.healthlawyers.org/>
- National Health Care Anti-Fraud Association (NHCAA) website <http://www.nhcaa.org/>
- Institute for Health Care Improvement (IHI) website <http://www.nhcaa.org/>
- Corporate Responsibility and Health Care Quality - A Resource for Health Care Boards of Directors, U.S. Dept. of Health and Human Services Office of the Inspector General and The American Health Lawyers Assn. <http://oig.hhs.gov/fraud/docs/complianceguidance/CorporateResponsibilityFinal%209-4-07.pdf>
- OIG Exclusions List <https://exclusions.oig.hhs.gov/>

- GSA Exclusions List <https://www.sam.gov/>
- Arkansas Physical Therapy Association [https://integrity.apta.org/uploadedFiles/Integrityaptaorg/Reducing\\_Risk/Understanding\\_Risk/Primer/PreventingFraudPrimer\\_PresentationNotes.pdf](https://integrity.apta.org/uploadedFiles/Integrityaptaorg/Reducing_Risk/Understanding_Risk/Primer/PreventingFraudPrimer_PresentationNotes.pdf)
- Medicare [www.StopMedicareFraud.gov](http://www.StopMedicareFraud.gov)

If you have witnessed fraud, abuse, or waste, the APTA recommends taking these steps:

- Contact the compliance officer in the facility if there is one.
- Immediately stop submitting any problematic bills.
- Seek knowledgeable legal counsel, such as experienced health care lawyers.
- Determine whether there are overpayments that should be returned.
- Disentangle yourself from the problematic relationship.
- When appropriate, consider reporting the information to the Office of the Inspector General, Centers for Medicare and Medicaid Services, or the private payer, particularly if the compliance officer has not responded adequately. The Office of the Inspector General has set up a phone number (1-800-HHS-TIPS) and email address (HHSTIPS@oig.hhs.gov) for you to report suspected health care fraud anonymously. Remember to report as many details as possible to allow the most thorough investigation.

## ***Section 2 Summary***

Fraud, abuse, and waste are ethical considerations. A healthcare practitioner who is acting ethically will not knowingly participate in or allow fraud, abuse, or waste. To do so would be to ignore the patient's best interests, drive up patient cost, deprive needed healthcare of funding, and make resources unavailable. Therapists should be vigilant in researching their role to prevent or right fraud, waste, or abuse. Utilize the numerous resources available to maintain proper education and level of understanding to be the best advocate for your patients that you can be.

## **Section 2 Key Concepts**

- Fraud, abuse, and waste has been reported by the National Academy of Medicine to result in a \$765 billion dollar per year loss annually, with \$210 billion of that total attributed to unnecessary services, \$190 billion to excessive administrative costs, \$130 billion to inefficiently delivered services, \$105 billion to excessive prices, \$75 billion to fraud, and \$55 billion to missed prevention opportunities.
- Fraud, abuse, and waste result in over utilization of services, increased payor cost, corruption of medical decision making, promotion of unfair competition, unnecessary waste of money, and harm to the patient.
- Laws are constantly changing regarding fraud, abuse and waste. Some of the most relevant are the False Claims Act, The Federal Anti-Kickback Statute, The Physician Self Referral Law, Exclusion Authorities, and Civil Monetary Penalty Law.
- Compliance programs are mandated by the Affordable Care Act and should include the seven elements provided by the Office of the Inspector General.
- The Integrity and Practice Campaign is a program launched by the American Physical Therapy Association in an effort to illuminate fraud, abuse, and waste.

## **Section 2 Key Terms**

**Abuse** - payment for services or items that the provider is not entitled to and for which the provider has not intentionally misrepresented facts to obtain payment

**Compliance Officer** - A compliance officer is an individual who ensures that a company complies with its outside regulatory and legal requirements as well as internal policies and bylaws. Compliance officers have a duty to their employer to work with management and staff to identify and manage regulatory risk.

**Evidence based patient care** - the conscientious use of current best evidence in making decisions about the care of individual patients or the delivery of health services.

**Fraud** - the intentional deception or misrepresentation that a person makes to gain a benefit to which they are not entitled

**Waste** - incurring unnecessary cost as a result of deficient practices, management, or controls.



## Section 3

### *Examples of Ethical Dilemmas in Healthcare*

There are many ways that dilemmas can present themselves in the care of patients. Ethical dilemmas include, but are not limited to, romantic/sexual relationships with patients/previous patients, monetary issues regarding treatment, handling external pressure, monetary pressure from other professionals, and many other scenarios. Provided for your perusal are some example cases that may seem difficult to maneuver ethically and professionally.

#### *Example Case 1*

A highly valued therapist is in the employ of a major sports team. The patient was injured while playing and has been in physical therapy for some time, and is progressing well. The therapist recommends continued therapy with strength and endurance training, stretching to improve range of motion, balance exercises, and most of all a monitored return to full activity. However, the team and player are pushing for a release and favorable return to activity recommendation. This is requested either by a simple release form, or by pushing the patient harder and faster to facilitate what they believe is a faster recovery.

It is implied by the team supervisors that if such a release is not forthcoming soon, the team will resort to finding other means of obtaining said release, be it from a physician who is also in the teams employ, or from the dismissal and rehire of a new therapist. In this instance there is enormous external pressure to perform as expected and desired, at threat of being discharged from the position they hold.

What actions should be taken by the therapist? Making a recommendation for return to full duty is ill advised and irresponsible despite the pressure placed upon the therapists' job. Although it seems to be in the therapist's best interest to consider advising a release, it would be an unethical and possibly career ending choice as well as against the patient's best interest. If the player were to be released, and then reinjured, the ramifications of a false release that went against all the documentation that detailed the fact that the player was not physically ready to return to full duty would be enormous. In this case, the best course of action would be to stick to your guns, and ethics, and provide documented evidence that you do not support the

release of the player. Although this may mean dismissal, the ethics upheld in this instant will prove your merit as a therapist and the ability to not succumb to external pressure and follow the best interests of your patient. There is never a shortcut to recovery, and nothing to be gained by either working patients harder and faster than is advisable or to release someone who is not recovered.

## ***Example Case 2***

Dexter is a mature physical therapist who is well known and respected in his community. He has been treating a woman for months regarding a knee injury sustained while engaging in competitive sports. They have a lot in common and really enjoy one another's company. They have engaged in humorous friendly exchanges, however Dexter is careful to maintain a certain distance not only to protect himself, but the patient. The treatments are nearing conclusion, as the woman's knee has returned to full functional ability and will require no more checkups, only continuation of exercise at home and self monitoring. The patient has recently begun to express a desire to go on a date outside of their working relationship, and Dexter is hesitant to deny the date due to not only a fear of hurting the patients feelings but also a desire to enjoy the patients company in a non professional standard.

Dexter is aware that due to the length of time he has spent with this patient it is normal to develop a camaraderie with a woman with whom he is so compatible, and he is also aware that a romantic relationship is not permissible due to the patient/provider relationship. In a patient/provider relationship, the patient is considered vulnerable due to the trust placed in a person in a position of power and authority. During the process of physical therapy, the therapist must investigate and elicit personal information from patients to treat them well. This may lead to feelings of affection from the patient.

In such an instance, the therapist has a responsibility to protect the patient from exploitation or abuse. If such feelings are reciprocated they must be suppressed to provide optimal care and protection. Refer to the aforementioned Code of Ethics for assistance. The APTA's code states that a therapist must put the patient's interests first. Principle one of the Code states, "A physical therapist shall respect the rights and dignity of all individuals and shall provide compassionate care." Principle 2 states, "A physical therapist shall act in a trustworthy manner towards patients/clients, and in all other aspects of physical therapy practice". Principle 6 states that physical therapists should "maintain and promote high standards for physical therapy practice." These guidelines enforce that any sort of romantic or sexual relationship should not exist while a patient is under the care of the therapist, due to fear of

impinging upon the patients rights, exploiting them, or taking advantage of the vulnerability the therapist is entrusted with. The maintenance of a proper provider/client relationship is essential to building trust and showcasing professionalism. Any type of a sexual or romantic relationship between provider and client is likely to have an adverse effect on the way the provider is viewed by other patients. If a provider is seen as unable to adhere to personal boundaries, he/she is not going to seem very trustworthy.

In such a case, if Dexter were to so desire, it seems he could technically agree to an outing after the treatments were to cease. This would mean that there was no longer a patient/provider relationship. However, if a patient is considered vulnerable on one day, would it be apt to assume that due to the cessation of treatments on a Wednesday they are no longer vulnerable on the next Thursday? This question has been a difficult one to answer by the American Physical Therapy Association. The ethical implications of the provider exploiting the vulnerable make it difficult to deem when such a relationship may be appropriate.

The **American Medical Association (AMA)** has stated that a physician engaging in a sexual or romantic relationship with a former patient is unethical “if the physician uses or exploits trust, knowledge, emotions, or influence derived from the previous professional relationship.” The determination of whether a therapist would be exploiting a patient’s vulnerability due to use of knowledge, influence, or trust derived from such a professional relationship depends on the circumstances unique to each case. Therefore it is difficult to determine if a time period between patient cessation and dating should be three months or three years. The determination of appropriateness lies less in the time lapsed between treatments and formation of a relationship than it does in the difference in status, power, and emotional vulnerability of the former patient and the therapist. Questions that may be useful in reaching this determination include:

- Is the age difference between the physical therapist and the former patient substantial?
- Is the patient considerably poorer or less well educated than the physical therapist?
- Does the patient have major psychiatric or psychological problems?
- Is the patient suffering from a separation or divorce, death of a loved one, or economic difficulties?

- Does he/she have problems with substance abuse?
- Has the patient been the victim of abuse, especially sexual abuse?
- Is the patient particularly lonely or extremely shy?

The therapists' own circumstances are also relevant, as a therapist with recent or chronic emotional, psychological, or drug abuse problems are more likely to engage in some type of an abusive relationship with a patient. The therapist is advised to consider all possible ramifications and assets of such a relationship with a patient, and to consider seeking the advice of a trusted colleague. This is a common issue, and is a very difficult arena to navigate or apply the same restrictions to every instance.

### ***Example Case 3***

A patient in a nursing facility presents with an old below knee amputation. She is relatively young, a smoker, and shows moderate willingness to participate in physical therapy. She has a rather severe knee flexion contracture. She submits to heat and other modalities for stretching, and is amenable to attempting to bear weight upon the affected limb. She expresses a desire for a prosthetic to return to prior functionality. Her family is also insistent upon rehabilitating the lower extremity and resumption of gait training, but seem reluctant to discuss why previous efforts were not made.

The issue lies in that the patient amputation was many years prior. The gains from modalities and stretching are minimal and patient tolerance for weight bearing on the residual limb are low. When attempting to explain such limitations to the family and patient gently, the therapist is met with resistance and denial. They insist on attempting to rehabilitate.

Insurance will not pay for a prosthetic as it has been so long since the surgery and there is little improvement noted on the prerequisite therapy over the course of many months. The physician handling the patient recommends not to acquire the prosthetic, and in fact to continue therapy only at maintenance levels due to the patient not progressing.

How should this situation be handled? There are a few different issues here. Difficulty discussing patient progress and prognosis, and whether to allow the patient to pay out of pocket for something that will ultimately not have a feasible result. Principle 2

requires the therapist to respect patient autonomy. Meaning, the therapist must be forthcoming with the results of the physical therapy thus far and the projected results. He/she must discuss all the results from the attempts to rehab the limb, including minimal gains with range of motion and weight bearing, and the effect that these will have on the ability of the patient to reach standing and gait potential. This will be difficult due to patient and family resistance. The out of pocket cost must also be assessed, regarding continuing physical therapy with no progression and the purchase of a prosthetic which will more than likely never be utilized. It is vital to discuss at the beginning of therapy treatments what the expected prognosis is and also what may hinder desired results. Being frank and up front from the beginning will assist with later issues when some of the patient or family members' desires are just not reachable.

### ***Example Case 4***

Unfortunately we live in a system where our healthcare is constantly in flux. Many insured have high deductibles, high copays, and narrow networks in which patients are only covered when they see certain doctors. State and federal governments are tweaking and revising Medicare and Medicaid requirements amongst others, which sometimes leads to less coverage than someone requires. This is a systemic issue that cannot be fixed at our level. It is important for clinicians to be an advocate for change. This is indicative of the social responsibility and involvement expected of someone with the knowledge to make a difference. Therapists must **advocate** for changes in laws, regulations, standards, and guidelines that affect physical therapist service provision.

In one such case, say a patient suffered a back injury falling in their home. He is in a great deal of pain. Upon referral, it is found that the patient's insurance will only pay for the initial exam, and possibly six additional sessions. This is explained to the patient immediately, and the patient states understanding and wishes to continue. It is found during examination that the patient would benefit from several interventions, including modalities for pain, stretching, strengthening of the core and thoracic areas, balance training to avoid such a fall in the future, and other various tactics.

What is the best course? The patient is a disabled person who has limited resources. The therapy the patient requires is more extensive than the allowed number of visits. You have spoken with the insurance company, and it is unlikely they will approve more visits. Should you treat the patient pro bono? Unfortunately, you're likely to see many cases in which people could benefit from more therapy but are unable to afford the

extra visits, and it is impossible to see them all. Should you schedule the visits and tell the patient they will be required to pay out of pocket? This does not seem possible, as they are on a fixed income. Are there any programs available to help someone in this situation within your organization, and if so, is this person a candidate? It certainly would not be detrimental to try.

In this case, while awaiting a response from insurance or programs, it seems that the therapist may need to work under the assumption that visits may be few and far between. It may be best to only meet once per week to continue to monitor and revise the treatment plan as long as possible. The therapist should devise an at home treatment plan and provide extensive education to allow the patient to perform their own therapy, while monitoring to ensure the patient progresses and performs properly. The therapist should be focussing on the things the patient cannot do on their own when they are able to meet. This example is why a therapist is morally and ethically required to speak up for the less fortunate, as in a lot of circumstances no more visits will be allowed and no public help is available. Do not only see patients with good insurance or the ability to self pay. **Pro bono** assistance is always encouraged, although it is recognized that this may be difficult and is usually reserved for very serious cases. An ethical way of handling the problem of pro bono need versus going out of business would be to selectively accept a limited number of patients with little or no coverage. Principle 8 reminds us of our social responsibility to help our fellow man.

### ***Example Case 5***

Occasionally there may arise an issue when a clinician is faced with a coworker who appears to be **impaired** in some way. Some practitioners may begin coming to work after drinking, doing drugs, or seem to be suffering from some sort of deficit to their mental faculties. It is mandatory to report someone who has been drinking or doing drugs to the appropriate authority figures. Some therapists mention hesitance to do so due to fear of repercussion, unwillingness to get a coworker in trouble, or uncertainty.

Keep in mind that a practitioner is above all required to protect the patients. This is at the cost of the therapists' desires themselves, and at the cost of protecting someone who has such an obvious issue as to work impaired. If someone seems to be consistently operating under the influence, it is better to be safe than risk a patient's wellbeing. Fear of a coworker losing a license is worth the risk, as Physical Therapy Boards will normally attempt to mediate and help a therapist instead of condemning them.

## **Example Case 6**

Corey, a prominent and well respected therapist, owns a large stake in a company that makes **durable medical equipment (DME)**. Whenever a patient is in need of equipment, he refers them to the company he has an interest in. He does not disclose his relationship to the company, but does have each client list his name for a referral. This company then bills the insurance and provides Corey with money for his referral. Doing this, he receives “kickbacks”. A kickback is a monetary payment to someone who has facilitated a transaction, which means Corey receives money for every client he sends the way of the company, in addition to a portion of the income of the company through his stocks.

Principle 3 states that physical therapists shall not engage in conflicts of interest that interfere with professional judgment. Promoting a specific company or service solely to be self serving and build one's own wealth goes against the grain of being a selfless community serving practitioner.

There is a federal “Anti-kickback Statute” which prevents anyone from knowingly and willfully offering or receiving a form of payment in return for referring a patient to another provider for services covered by Medicare or Medicaid. The purpose of this statute is to protect people from fraud and abuse.

## **Example Case 7**

Jill is a physical therapist visiting a prominent doctor's office in an attempt to promote her business and receive more referrals. The talks seem to be going well, however over time the physician begins to refer to how much better he'd be able to consider referral issues if he were more relaxed. He repeatedly references the benefits of a local spa, and how he loves to go there but cannot justify the expense to his wife so cannot attend the seminars. Jill begins to get the feeling that the physician is attempting to infer that he would like to receive some sort of “incentive”, possibly in the form of gift certificates, to motivate him to refer patients to her practice. He does imply that if he were more relaxed, he would be happy to speak to his colleagues about their own referrals. Jill leaves the office unsettled and confused, as the physician never made any inappropriate suggestions outright.

This scenario violates several issues. The Anti-Kickback Law is an issue primarily. Jill's practice is a fledgling business and she is struggling to reach physicians who do not already have a good working relationship with therapists in the area. What should she do in this situation? Jill eventually decides that although she would likely receive

referrals and build her practice, it is not worth breaking the law, nor is it worth compromising her own individual morals.

### ***Section 3 Summary***

Ethical issues are many varied and need to each be handled in a different way. There is not a cookie cutter response that can be applied to each situation. If a therapist follows the guidelines and resources provided to them, they should be able to come to a conclusion without compromising themselves.

### ***Section 3 Key Concepts***

- Refer to the Code of Ethics, The Core Values, and other tools to assist in making difficult decisions.
- Some decisions will have a clear path to follow, while others will be more difficult to discern.
- When in doubt, seek guidance from a senior or respected colleague.
- Research and review prior similar cases.

### ***Section 3 Key Terms***

**Advocate** - to publicly recommend or support

**American Medical Association (AMA)** - The American Medical Association, founded in 1847 and incorporated in 1897, is the largest association of physicians—both MDs and DOs—and medical students in the United States. The AMA's stated mission is "to promote the art and science of medicine and the betterment of public health.

**Durable medical equipment (DME)** - DME includes, but is not limited to, wheelchairs (manual and electric), hospital beds, traction equipment, canes, crutches, walkers, ventilators, oxygen, monitors, pressure mattresses, and lifts.

**Impaired** - weakened or damaged, in this case to have faculties diminished by drugs, alcohol, or mental illness

**Kick-backs** - a payment to someone who has facilitated a transaction, which can be in the form of cash or gifts



**Pro bono** - denoting work undertaken without charge, for a client who is likely low income

**Referral** - an act of referring someone or something for consultation, review, or further action.

## Section 4

### *Ways to Handle Ethical Dilemmas*

There are many ways to handle ethical dilemmas. Utilization of the resources provided is one method to help determine a course of action. In this section we will discuss other ways to deal with ethical confusion, from issues that simply require you to abide by ethical standards to issues that seem to have two competing ethical sides.

### *Tools for Ethical Considerations*

#### **The Hippocratic Oath**

The Hippocratic Oath is an oath typically taken by physicians. It was written between the fifth and third centuries BC. It has since evolved into a document of professional ethics referred to by more extensive, regularly updated ethical codes issued by national medical associations, such as the AMA Code of Medical Ethics (first adopted in 1847). It has been modified many times and the current version has been in use since 1954, with several revisions and additions. The original invoked Greek Gods and Goddesses, addressed only males, and forbid items that are still hot button issues such as abortion and assisted suicide. The most recent revision in 2019 added that we are required to engage in "protection of the environment which sustains us". The modernized Hippocratic Oath states;

"I swear to fulfill, to the best of my ability and judgment, this covenant:

I will respect the hard-won scientific gains of those physicians in whose steps I walk, and gladly share such knowledge as is mine with those who are to follow.

I will apply, for the benefit of the sick, all measures [that] are required, avoiding those twin traps of overtreatment and **therapeutic nihilism**.

I will remember that there is art to medicine as well as science, and that warmth, sympathy, and understanding may outweigh the surgeon's knife or the chemist's drug.

I will not be ashamed to say "I know not," nor will I fail to call in my colleagues when the skills of another are needed for a patient's recovery.

I will respect the privacy of my patients, for their problems are not disclosed to me that the world may know. Most especially must I tread with care in matters of life and

death. If it is given me to save a life, all thanks. But it may also be within my power to take a life; this awesome responsibility must be faced with great humbleness and awareness of my own frailty. Above all, I must not play at God.

I will remember that I do not treat a fever chart, a cancerous growth, but a sick human being, whose illness may affect the person's family and economic stability. My responsibility includes these related problems, if I am to care adequately for the sick. I will prevent disease whenever I can, for prevention is preferable to cure.

I will protect the environment which sustains us, in the knowledge that the continuing health of ourselves and our societies is dependent on a healthy planet.

I will remember that I remain a member of society, with special obligations to all my fellow human beings, those sound of mind and body as well as the infirm.

If I do not violate this oath, may I enjoy life and art, respected while I live and remembered with affection thereafter. May I always act so as to preserve the finest traditions of my calling and may I long experience the joy of healing those who seek my help.”

This oath is relevant to all medical practitioners and should be referred to as a basic guideline for medical staff. The oath calls upon physicians to prevent disease, treat the sick, protect the environment, respect confidentiality, recognize one's own faults and not be afraid to call upon help, avoid unnecessary treatments and procedures, and that warmth, sympathy, and understanding are important above medicine or surgery. It calls upon doctors to keep this oath sacred and avoid violation, to enjoy their role and be proud of it.

The **Realm Individual Process Situation (RIPS)** model is one such tool that can be of assistance in any situation. This model suggests that there are four initial steps to ethical decision making. They are to recognize and define the ethical issues, reflect, decide the right thing to do, and implement, evaluate, and re-assess. RIPS can be broken down in the following ways:

- Realm-Individual, Organizational/Institutional, Societal
- Individual Process-Moral sensitivity, Moral judgement, Moral motivation, Moral courage
- Situation-Issue or problem, Dilemma, Distress, Temptation, Silence.

In step one of RIPS, Realm, a therapist should identify the elements of the ethical situation. Firstly, for each of the three realms. Considerations are more difficult

moving from individual (one's own considerations, or the considerations of one individual), to organizational (the requirements of a practice or profession), to societal (duty to society as a whole). One realm is usually more relevant than the others, but every situation has elements of each realm and all should be identified and considered for their possible ramifications.

Next, the therapist is required to ask, what is the Individual Process, and what does this situation require from me? Is it to recognize the ethical situation (**moral sensitivity**), to make a decision about right or wrong (**moral judgement**), to put moral values above other values (**moral motivation**), or whether to implement my decision or take action at all (**moral courage**)? It is also advised to consider the moral implications of others involved to achieve a better understanding of the situation as a whole.

Lastly, the therapist should identify the Situation. Is this an ethical **issue/problem**, a **dilemma**, **distress**, **temptation**, or **silence**? With an issue or problem, important values are present or may be challenged. A dilemma occurs when two alternative courses of action may be taken, both of which fulfill an important duty, and it is not possible to fulfill both obligations. Distress presents when you know the path you should take, but you are unable to take that path. Temptation involves a choice between a "right" and a "wrong," and in which you may stand to benefit from doing the wrong thing. Silence is evidenced when ethical values are challenged, but no one is speaking about this challenge to values. This may actually be the course taken by an individual who is experiencing moral distress.

Step two of the RIPS model is to reflect upon and interpret the information gathered in step one through the breakdown of RIPS. This reflection will guide further decision making. For example, if the realm is decided to be individual, it may involve direct communication with an individual, changes in interpersonal behavior, or even changes in one's own personal behavior. In an organizational realm, actions may require development or revision of policies, procedures, culture, or values. If the situation is at a societal level, action taken should concern the national legislation, policies, or values that are involved. Remember that most situations will have elements of all three realms to consider, and it is not always possible to address every realm. It is also not possible to negate the issues in one realm by fixing only the issues in another. In some cases, it is necessary to determine the most impactful or important situational realm and focus on that.

Some questions to ask yourself during the reflection process include:

- What are the relevant facts and contextual information?
- Who has the most to lose or gain?
- What are the possible consequences (intended and unintended)?
- What are the relevant laws, duties, obligations, and ethical principles?
- What professional resources (Code of Ethics, Guide for Professional Conduct, Core Values) speak to this situation?
- Are any of the four tests for right versus wrong situations positive?

The four tests for the right versus wrong situations, designed by RM Kidder, author of “How Good People Make Tough Choices: Resolving the Dilemmas of Ethical Living”, are designed to help put things into perspective a bit easier. They are:

- **The Legal Test** - Is something illegal? (Be aware of your Practice Act and the Rules and Regulations that interpret the Act). If so, it is probably not a true dilemma but a “hard choice.”
- **The Stench Test** - Does it feel wrong? What is your “gut reaction”? Pay attention to your instincts.
- **The Front-page Test** - How would I feel if this were featured on the front page of a newspaper?
- **The Mom Test** - If I were my parent, what would I do?
- In addition to these four, it is suggested to add a last test. **The Professional Ethics Test** - Does the Code of Ethics, Guide for Professional Conduct for the PT, Standards of Ethical Conduct, Guide for Conduct of the PTA, or Core Values prohibit or discourage the action?

If any of the answers to these questions are “positive”, this is a “right vs. wrong” situation, in which you can skip step 3 and go immediately to step four. Step three is to decide the right thing to do. This step is specifically for ethical dilemmas, where there appears to be two “right” solutions. Kidder, the aforementioned author, suggests three basic approaches to resolving “right vs. right” issues;

- **Rule-based** - The practice of following the rules, duties, obligations, or ethical principles already in place.
- **Ends-based** - The practice of determining the consequences or outcomes of alternative actions and the good or harm that will result for all of the stakeholders.
- **Care-based** - The practice of resolving dilemmas according to relationships and concern for others.

The approach should be determined based on a case by case basis, however all as medical professionals should include elements of a care based approach.

Step four is to implement, evaluate, and reassess. Implement the decision you have arrived at. Evaluate the response such implementation receives. Reassess your decision and the ramifications there of. Evaluation may indicate that you did make the wrong decision. In such a case, you must reassess what caused you to reach the decision, what needs to be done differently, and whether policies, procedures, or personal values need to be changed. This step requires personal reflection and professional growth. Being honest with yourself is paramount to successful reassessment. What can be learned from this situation? How could things have been decided differently? What are your strengths and weaknesses that you have learned from this process? Should you plan interventions to improve upon yourself?

Application of the RIPS model can be considered in this scenario. A therapist named Jenny has been treating a patient for several months. This patient would like to show her gratitude by proffering a small gift. The Model may break down the decision making process in this way;

- **Realm?** Individual. This situation is primarily about the relationship between the therapist and the patient. Although it is true that there may be organizational policies about receiving gifts, the essential issue is about the relationship between these two individuals.
- **Individual Process?** Moral Judgement. The therapist must decide between two rights, respecting the patient's gratitude and feelings, and avoiding the appearance of being influenced by gifts. The implementation plan will also need to keep both rights in mind.
- **Situation?** Ethical Dilemma. Choice between two right actions.

What would your choice be? It is inadvisable to accept gifts of any sort. However, it is thoughtless and hurtful to discourage someone's gratitude. Something to consider is the monetary value of the item. Is it hand picked flowers, a jar of preserves, or some sort of craft? Something inexpensive such as a nice coffee cup, or some chocolates? In such a case it may be wiser to accept the gift, going with the "lesser of two evils", and feeling as though it would be better to respect the patient's feelings and gratitude. If it were an expensive item, on the other hand, it may be better to respectfully decline such a gift and explain that it is against policies and regulations to accept something that may be misconstrued as some sort of bribe or attempt to influence.

**Clinical reasoning** is another useful tool to assist a clinician in reaching a decision, be it ethically or otherwise. Clinical reasoning, or clinical decision making, is simply defined as the thinking and decision making of a health care provider in clinical practice. To enact clinical ethical reasoning, the following steps must be enacted;

- Summarize a plain statement of the initial problem
- Gather all relevant data, such as facts, goals, and context
- Perform a differential diagnostic assessment, asking if a problem is ethical or just a hard choice
- Determine the best course of action, and support your decision with reference to ethical values such as;
  - Ethical principles such as **beneficence**, **nonmaleficence**, respect for **autonomy**, **justice**
  - Rights, which are protections that are independent of professional obligations
  - Consequences and the estimation of the desirability of likely outcomes
  - Comparability, such as comparing cases to prior cases
  - Professional guidelines provided such as the Code of Ethics
- Put your plan into action after considering all possible evidence and outcomes.
- Post a decision, review the consequences that your actions have had.

**National Association Medical Staff Services (NAMSS)** is an association for medical staff professionals in the United States. Their mission is to enhance the professional development and recognition of the medical services profession through education and advocacy, and to ensure healthcare quality and patient safety. This association has provided a self assessment tool for ethical considerations. This tool has five subdivisions, which are Leadership, Relationships: Colleagues and Staff, Relationships: Clinicians, Relationships: External Business Partners (buyers, suppliers and payors), and NAMSS Code of Conduct. This assessment tool is provided to help someone understand their own stance on ethics and improve upon them. The practitioner is required to answer the questions set forth in an Always, Usually, Occasionally, Almost Never, Never, and Not Applicable answer form. Examples of the self assessment questions are as follows;

- **Leadership**

- I strive to be a role model for ethical behavior
- I demonstrate my organization's vision, mission and value statements in all my actions.

- **Relationships: Colleagues and Staff**

- I demonstrate that incompetent job performance is not tolerated and make timely decisions regarding marginally performing employees.
- I act quickly and decisively when employees are not treated fairly in their relationships with other employees.

- **Relationships: Clinicians**

- I expeditiously and forthrightly deal with impaired clinicians, and to the extent of my authority, I take necessary action when I believe a clinician is not competent to perform his/her clinical duties.
- I expect, and to the extent of my authority, hold clinicians accountable for adhering to their professional and the organization's ethical practices.

- **Relationships: External Business Partners (buyers, suppliers and payors)**

- I personally disclose, and expect board members, employees and clinicians to disclose, any possible conflicts of interests before pursuing or entering into relationships with potential business partners.
  - I am mindful of the importance of avoiding even the appearance of wrongdoing, conflict of interest, or interference with free competition.
- **NAMSS Code of Conduct**
    - I demonstrate expertise by protecting the safety of patients and other members of the healthcare team through credentialing processes that meet industry standards and understanding of regulatory requirements.
    - I continually strive to improve my knowledge, skills and productivity by participating in continuing education and professional development activities, and sharing my knowledge with colleagues.

### ***Section 4 Summary***

Utilize the tools at your disposal such as the ones mentioned to assist you in decision making concerning ethical choices. No matter the tools used, always examine the facts, ruminate on a plan, and then act, followed by reviewing the consequences of your actions. Post review, act upon bettering yourself to improve your decision making process and ways that you can respond to situations more favorably in the future. Study self assessment tools and use them to improve yourself and your ethical reactions to situations. No matter the outcome, there are always ways that you can improve, be it in procedure or implementation.

### ***Section 4 Key Concepts***

- RIPS stands for Realm, Individual Process, and Situation. RIPS is a tool used to make ethical decisions. Realm can be broken down into individual, organization/ institutional, or societal. Individual Process includes moral sensitivity, moral judgement, moral motivation, and moral sensitivity. Situation can be described as issue/problem, dilemma, distress, temptation, and silence.
- Step one of RIPS is to identify the elements of the situation. Step two is to reflect upon and interpret the information gathered in step one. Step three is to decide the right thing to do. Step four is to implement, assess, and review the ramifications of your decision.



- The four tests for the Right Vs. Wrong situations are The Legal Test, The Mom Test, The Front Page test, and The Stench Test. It is recommended to add the Professional Ethics Test for Physical Therapy.
- Clinical reasoning is the thinking and decision making of a health care provider in clinical practice. It is a simpler way to help make ethical decisions than the RIPS model.

### ***Section 4 Key Terms***

**Autonomy** - The right of patients to make decisions about their medical care without their health care provider trying to influence the decision. Patient autonomy does allow for health care providers to educate the patient but does not allow the health care provider to make the decision for the patient.

**Beneficence** - an act of charity, mercy, and kindness with a strong connotation of doing good to others including moral obligation.

**Clinical reasoning** - the thinking and decision making of a health care provider in clinical practice

**Dilemma** - facet of Situation in RIPS, occurs when two alternative courses of action may be taken, both of which fulfill an important duty, and it is not possible to fulfill both obligations.

**Distress** - facet of Situation in RIPS, wherein you know the path you should take, but you are unable to take that path.

**Evaluate** - to form an idea, to assess.

**Implement** - to put a decision, plan, or agreement into effect

**Issue/problem** - facet of Situation in RIPS, wherein important values are present or may be challenged

**Reassess** - to consider or assess again, especially while paying attention to new or different factors.

**Justice** - just behavior or treatment

**Moral Courage** - facet of Individual process of RIPS, deciding whether to implement my decision or take action at all

**Moral Judgement** - facet of Individual process of RIPS, to make a decision about right or wrong

**Moral Motivation** - facet of Individual process of RIPS, to put moral values above other values

**Moral Sensitivity** - facet of Individual process of RIPS, the recognition of the ethical situation

**National Association Medical Staff Services** - an association for medical staff professionals in the United States which has provided a self assessment tool for professionals

**Non maleficence** - means non-harming or inflicting the least harm possible to reach a beneficial outcome.

**Realm Individual Process Situation (RIPS)** - a tool used to assist therapists with ethical decision making

**Silence** - facet of Situation in RIPS, when ethical values are challenged, but no one is speaking about this challenge to values.

**Temptation** - facet of Situation in RIPS, involves a choice between a “right” and a “wrong,” and in which you may stand to benefit from doing the wrong thing.

**Therapeutic Nihilism** - skepticism regarding the worth of therapeutic agents especially in a particular disease. This is a contention that it is impossible to cure people or societies of their ills through treatment. Proponents of this view claimed that every man should be his own physician through democratization of knowledge in the late 19th century. In medicine, it was connected to the idea that many "cures" do more harm than good, and that one should instead encourage the body to heal itself.

## Section 5

### *How to Resolve External Disputes*

**Disputes** can arise in any situation or relationship. **Controversy** can become evident between colleagues such as doctor and therapist or fellow therapists, employer and employee, or practitioner and client. How to resolve such situations will differ from case to case. Sometimes a third party must be consulted to help **mediate**, but this is not always necessary. To resolve a dispute, try to follow these recommendations;

- Examine the situation and gather all pertinent facts. If considering involving a third party, it is necessary to be able to share the entire story, as you are able. Keep in mind that some information may be protected by the privacy act, and what you are able to share may impact how you proceed or how others offer guidance.
- Review all applicable laws, regulations, policies, and rules. Review state practice acts, rules and regulations, to ensure adherence to such acts. In the case of Physical Therapy, such documents can all be accessed via the APTA website. Review state laws as well, and your own corporation's policies as they apply.
- Consider your options. Can this dispute be resolved between the parties? Is it necessary to involve another coworker, a supervisor, or to go so far as to file a complaint? It is always best to resolve disputes as simply as possible. You may reach your own conclusion about whether something is legal or ethical, but a court, agency, or other authority will engage in their own analysis of the facts presented to them and it may not align with what you had concluded. Attempt to resolve issues with conflict resolution skills;
  - **Active Listening.** If the dispute concerns a colleague, talk to them. Discuss where the disparity occurred, and be open to changing your opinions on a matter if provided with new facts. Two parties can often come to their own solution without involving a third party.
  - Practice patience with the other party and with yourself.
  - Be **impartial**. Try to reserve judgement.
  - Open Communication. Be honest and forthcoming.
  - Try to avoid becoming defensive in a confrontational situation.

- Avoid accusing anyone of unethical behavior
  - Ask yourself if the problem is a regulatory issue or a process issue related to regulatory requirements and proceed as necessary.
  - Determine if anything in the Code of Ethics applies to your problem and can help develop a course of action for you to pursue.
  - Identify who has the power and control in the situation, and what your options are to proceed.
  - Identify what is in your control and what you cannot change.
  - Identify and list your resources. These can be a supervisor, colleague, or member of a governing board. Ask yourself if you need more information, clarification, or guidance from others who have had a similar problem.
  - Make a list of possible actions and their positive and negative consequences.
  - Make a plan that you can defend professionally, adequately, and ethically and that meets the requirements of the regulations, rules, and procedures.
  - Take action and evaluate your plan as you proceed. Be open to changing your course of action based on the consequences that unfold from your prior actions. Be open to being proven wrong, and do not be defensive if so.

If you are unable to reach a solution, you may be forced to speak with a supervisor or file a **grievance** against said employee. Be prepared to discuss details at length no matter who you speak to.

- Seek legal counsel. If this is a dispute in which a case may be brought against you, by all means speak to someone who is well versed in law and can offer advice and support.

- Determine the grievance procedure and process for filing a complaint.
- File a complaint (such as an **ethics complaint**) with the licensing board in your state: Complaints against a PT or PTA can be filed with the **State Licensing Board Disciplinary Agency**. Each state has a process and legal authority and responsibility to address such complaints. Each state can take action against the license of a PT or PTA. **The Federation of State Boards of Physical Therapy (FSBPT)** provides sample violations and complaints to compare and information on how to file complaints.
- If the matter involves fraud or HIPAA violations you should seek assistance from various law enforcement agencies. You may contact the Medicare fraud hotline or report fraud online to the Office of Inspector General in the US Department of Health & Human Services. If the matter deals with a potential violation of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), you may consider whether to contact the US Department of Health & Human Services to file a complaint.
- If the matter involves removing information from the internet, you may want to try contacting the company that has published the information.

### ***Ethics Remediation***

Rules are broken for many reasons. This includes simple error, **negligence**, **recklessness**, and knowing violations. Someone who intentionally violates a rule or ethical standards outlined in the licensing act is the worst offender. Ethics remediation is a diverse topic and as such developing an effective and just program to handle such violations is difficult and constantly changing. It's been shown that when new graduates are tested they score higher on an ethical skills test than when they are retested later in their careers. This may be due to societal or institutional pressures changing professionals ethical decision making, or it is possible therapists are modeling their behavior on the actions of coworkers. Ethical decision making can be difficult for new graduates who are searching for role models, and can be skewed by others who do not promote their best self and encourage therapists to follow their lead.

Ethics have not been studied conclusively and as such it is difficult to determine what ramifications there should be for someone who does not follow the ethical guidelines. Further study is required to reach some sort of common consensus concerning punishment or remediation for breaking ethical procedure.

The following are some issues that may arise during ethical remediation.

- Is the licensing board recognizing the legal and ethical components in said **infraction**?
- Is it possible to assess license holders on their ethical decision making abilities?
- If someone is a repeat offender in violating ethical behavior standards, should a license be revoked for an extended period of time or indefinitely? If the license is revoked, is there a way to educate and improve the individual's response to ethical situations or are they to be considered irredeemable? A large number of licensing boards have a list of tasks that an offender must perform to assist in redemption. Most offenders perform these tasks very well. Does this mean we are changing behavior or are they just good at working the system? Is there a learning environment or program that can be implemented to help educate these people to a higher standard of behavior.
- Are there some professionals who should not be allowed to continue to practice for the safety of the public?
- Should someone be punished for human error? If repeated, yes, but the first offense? Should that person receive the same punishment as someone who is intentionally breaking the rules? If not, how should we consider the inconsistency in the rules

### ***Section 5 Summary***

It is the responsibility of each individual to police their own behavior and guide the ethical behavior of their peers and coworkers. If unable to resolve issues interpersonally it may be required to involve a higher authority to ensure ethical behavior and protect the patients. Refer to the Federal State Boards of Physical Therapy to obtain a guide on how to proceed if necessary.

### ***Section 5 Key Concepts***

- To assess a procedure to follow for disputes, gather all the facts first to assure a knowledgeable response. Review the laws, regulations, policies and rules federally, state specific, and all jurisdictions. Next, consider your options and decide on a course of action and follow through.

- Remediation is a difficult subject, as there is not enough study to determine adequate guidelines at this time. Further examination is required to further understand and progress concerning ethical remediation.
- Ethical violations are not all the same and cannot be treated as such. Each situation is varied and should be considered on a case by case basis.

## ***Section 5 Key Terms***

**Active Listening** - fully concentrating on what is being said rather than just passively 'hearing' the message of the speaker.

**Controversy** - a disagreement

**Disputes** - a disagreement, argument, or debate

**Ethics Complaint** - a complaint filed when it is believed that someone has violated something in the Code of Ethics

**Ethics Remediation** - programs created to handle ethics violations

**Grievance** - an official statement of a complaint over something believed to be wrong or unfair.

**Impartial** - treating all rivals or disputants equally; fair and just.

**Infraction** - a violation or infringement of a law or agreement

**Mediate** - intervene between people in a dispute in order to bring about an agreement or reconciliation.

**Negligence** - failure to use reasonable care, resulting in damage or injury to another.

**Recklessness** - lack of regard for the danger or consequences of one's actions; rashness.

**State Licensing Board Disciplinary Agency** - state specific agencies that deal with any complaints or issues concerning therapists

**Federation of State Boards of Physical Therapy (FSBPT)** - The mission of the Federation of State Boards of Physical Therapy (FSBPT) is to protect the public by providing service and leadership that promote safe and competent physical therapy practice. The Federation's vision is that state licensing boards and their Federation of State Boards of Physical Therapy will achieve a high level of public protection through a strong foundation of laws and regulatory standards in physical therapy, effective tools and systems to assess entry-level and continuing competence, and public and professional awareness of resources for public protection.

## Section 6

### *How to Demonstrate Ethical Behavior in the Medical Field*

Ethics are vital in medical practice to guide our behavior in our practice of the therapeutic arts. An ethical person must be willing to place the needs of others ahead of their own needs, for the most part. There are many benefits to performing in an ethical way aside from protecting oneself from repercussion, harm to professional reputation, and threat of legal issues. Behaving in an ethical way promotes the business, validates the professionalism desired, and demonstrates the way a therapist should uphold their image and be a role model for the community.

There are two main ethical theories that apply to medical practice:

- **Consequentialism** refers to those moral theories which hold that the consequences of a particular action form the basis for any valid moral judgement about that action.
- **Deontology** is an approach to ethics that focuses on the rightness or wrongness of actions themselves, as opposed to the rightness or wrongness of the consequences of those actions.

For example, if a patient were to pass and a physician were to lie in breaking the news to a family member, he would say "he passed quickly and peacefully." In consequentialism, this would be acceptable as the doctor would be attempting to lessen the families pain at this time. If deontology were to be concerned, this would be wrong as lying in any form for any reason is wrong. It would be the clinicians first instinct to protect the family from any further harm, despite the intrinsic implications of lying and the truth being withheld.



To adhere to ethics, try to keep the following in mind. It is vital to continuously question your own motives and actions, to ensure that you are being the best therapist you can be.

- Practice **beneficence**, which is to do good, and **non-maleficence** which is simply the act of not doing bad. Always try to do the best for your patients as you can and avoid any act which would result in further harm.
- Respect **autonomy** and **consent**. Autonomy is the right of a patient to make an informed decision regarding their treatment. Consent consists of **implied consent**, **expressed oral consent**, and **expressed written consent**. Implied consent is consent that is inferred by a doctor from actions or body language that implies that a patient is in agreement with a treatment or procedure. Expressed oral consent is a spoken statement agreeing to a treatment, while expressed written consent is written agreement to treatment, examination, or procedures. Expressed written consent is usually a signed document to affirm agreement, obtained after oral consent. **Fully informed consent** is agreement that is garnered when a person is given all the information about a procedure or treatment. When possible, fully informed consent, preferably written, should be obtained prior to procedures, treatment, or examination.
  - For example, if a patient were approached with a weight and were to raise an ankle to place the weight, this would be considered implied consent. Asking a patient for permission to apply electrodes with a positive reply would consist of oral consent. Written consent would be obtained before a surgical procedure to correct a physical abnormality. A patient reading and signing a consent form with a verbal discussion agreeing to a procedure would exhibit fully informed written and verbal consent.
- Truth telling should be evident. This means a medical practitioner should always tell the truth and provide all information pertaining to the patient condition, possible outcome, side effects of treatments or procedures, and any other information relevant to the patient. It is important to maintain a trusting environment.
- Confidentiality ensures that patient information is only available to or released to those who have a right to it. This is protected by HIPAA and promotes trust between the patient and therapist. Confidentiality may be broken if information shared by the patient refers to a potential danger to public or personal safety or if it is ordered by a court.

- Preservation of life is an ethical consideration. This is the will to treat a patient with the aim of prolonging a patient's life. In therapy, a therapist should not only aim to prolong a patient's life but to improve their life, including mobility, functionality, pain relief, and independence.
- Justice should be present in all activities. Justice refers to not only being fair and right, but also to the proper allocation of medical resources. This may be an equal distribution, known as **egalitarianism**, or a maximization of the average welfare across the whole society which is known as **utilitarianism**.
- Lead by setting an example of good ethical conduct and good ethical problem-solving skills
- Never let anyone think you don't care that unethical events are taking place
- Commit to being involved in the process of improving and practicing ethics
- Anticipate ethical conflicts and work to avoid or fix them
- Communicate well amongst coworkers, medical professionals, and patient
- Expect people to have different standards
- Remember that people are normally not as ethical as they think they are, nor are you as ethical as you believe you are
- Support your facilities' efforts to uphold high standards for ethical conduct, communicate about ethics, and solve ethical dilemmas
- Be consistent and predictable in your own actions to promote your own trustworthiness
- Pay attention to details
- Speak up whenever you feel more unethical behaviors are slipping in, or when it appears convenience or monetary pursuits are becoming more important than ethics.
- Define ethical expectations early in the relationship

- Be organized, stay focused and on track.
- Avoid cynicism and overthinking.
- Remember that **virtue** is its own good reward
- Improve Your Ethical Adherence and Compliance
  - See things as they are, not as you want them to be.
  - Resist the temptation to serve yourself before others. Be altruistic and thoughtful.
  - Learn about your ethics and the source of such. Are they formed and bolstered by religion, profession, family, or politics? Ethics can be formed and passed on by family members. Politically, a socialist would believe that they have the duty to protect the poor, and a libertarian you would believe that people have the right to live free of coercion regardless of their wealth or other people's poverty.
  - It can be helpful to write out your ethics and rank them by order of importance. Is it more important to you to never lie, or is it ok to tell a "white lie" to protect someone from pain? Make notes on how you can implement your ethics in everyday life, and try to do so.
  - Consider whether you follow your ethics. If you believe in helping the poor, do you do so? Do you volunteer, donate your time or money when able? If you believe in never lying, do you adhere to that strictly or are there extenuating circumstances?
  - Apply your ethics in everyday life. Act as you believe, and implement your beliefs steadfastly.
- Apply your Ethics to the Treatment of other People
  - Empathize with others. Try to understand what other people are feeling or experiencing.
  - Be selfless. Put others above yourself. In ethics, altruism is a key recurring component. Many believe this to be the most important keystone of ethical

behavior. When you are able, help others before yourselves. Don't spread blame, but spread out praise and the benefits.

- Embrace honesty. Avoid lying, cheating, or tricks for personal gain. Practice transparency.
- Respect the rights of others regardless of race, religion, sex, sexual orientation, gender expression, age, height, weight, physical or mental ability, veteran status, military obligations, and marital status. Everyone is different and all deserve to be treated as equals. Everyone should be free of coercion, free to pursue happiness, and safe from violence.
- Honor your obligations. Keep your promises and do not make promises you do not intend to or cannot keep.
- Avoid the common ethical pitfalls
  - Do not violate trust. If entrusted with information or possessions, keep those safe. Practice confidentiality.
  - Avoid hurting people's feelings for no reason. Respect the feelings of others and think before you speak in a tactful manner.
  - Do not steal, be it possessions, ideas, or even the credit for work you did not do.
  - Do not force your own ethics upon someone else. As ethics are largely personal, societal, and familial, what is ethical to one person may not be ethical to another.

### ***Section 6 Summary***

Strive to be the best you can be. Follow ethics, morals, and societal cues to perform well and be a good therapist. Check and reevaluate your own actions frequently, and as needed. Do not be afraid to change, and always practice altruism. Behaving ethically is something that is both learned along the way and practiced to improve upon. Treat others as you would like yourself or a loved one to be treated.

### ***Section 6 Key Concepts***

- Practice beneficence and non-maleficence.

- Respect autonomy and consent of each and every person.
- Be honest and transparent in all activities.
- Respect confidentiality and keep a person's trust. This includes complying with HIPAA.
- Act in a fair and just way.
- Apply your ethics to the treatment of other people and utilize your ethical principles in daily life.

### ***Section 6 Key Terms***

**Autonomy** - the right or condition of self-government

**Beneficence** - is defined as an act of charity, mercy, and kindness with a strong connotation of doing good to others including moral obligation. All professionals have the foundational moral imperative of doing right

**Consent** - permission for something to happen or agreement to do something

**Egalitarianism** - the doctrine that all people are equal and deserve equal rights and opportunities.

**Expressed oral consent** - when a patient has verbally given the doctor permission to proceed with the intended action.

**Expressed written consent** - documented evidence that the patient has, usually with a signature, given consent to a procedure

**Fully informed consent** - consent given after being given all the information about the procedure

**Implied consent** - consent which is not expressly granted by a person, but rather implicitly granted by a person's actions and the facts and circumstances of a particular situation (or in some cases, by a person's silence or inaction)

**Non-maleficence** - non-harming or inflicting the least harm possible to reach a beneficial outcome.

**Utilitarianism** - the doctrine that an action is right insofar as it promotes happiness, and that the greatest happiness of the greatest number should be the guiding principle of conduct

**Virtue** - showing high moral standards

## Conclusion

Ethics are comprised of familial, societal, professional, and religious beliefs. They are multi-faceted, oft changing, and cannot be applied the same to every situation. Ethics consist of consideration of the Five Roles of Physical Therapy, the Core Values, and the Code of Ethics, amongst other things. Use the tools provided to assess yourself and others for ethical compliance. Learn and research to grow and improve your ethical understanding. In the workplace, professionals should participate in continuing education discussions regarding ethical dilemmas and decisions. It is the duty of a therapist to guard the patient from harm, be it from themselves or from others. If necessary, seek higher advice or remediation from an authority figure. Being ethical is being conscientious about your choices. If a person is ethical, they know what is right or wrong and adhere to these standards. To be truly ethical, you must be acting ethically for self-satisfaction and the benefit of others, not for some sort of reward. Ultimately, one of the biggest challenges to live ethically is to serve others before yourself and live an altruistic lifestyle without neglecting your own needs. With a daily effort to put your beliefs and understanding of ethics into practice in everything you do, it is possible to live and practice your therapeutic treatment ethically.

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