

ETHICS - OKLAHOMA PHYSICAL THERAPY

GOALS AND OBJECTIVES

COURSE DESCRIPTION

“Ethics – Oklahoma Physical Therapy” is a home study continuing education program for Oklahoma licensed physical therapists and physical therapist assistants. The course focuses on defining moral, ethical, and legal behavior of physical therapy professionals. The information presented includes discussions on the theoretical basis for ethical decision-making, selected sections of the Oklahoma Physical Therapy Practice Act and Title 435, Chapter 20 of the Oklahoma Administrative Code, the APTA’s Code of Ethics and Guide for Professional Conduct, HIPAA, and hypothetical case studies.

COURSE RATIONALE

This course was developed to educate, promote and facilitate ethical and legal behavior by Oklahoma licensed physical therapists and physical therapist assistants. It is intended to meet the 3 hour Ethics CE requirement as mandated by 435:20-9-2 (b)(2) of the Oklahoma Administrative Code.

COURSE GOALS AND OBJECTIVES

At the end of this course, the participants will be able to:

1. define the meaning of Ethics and explain the various theories that promote ethical behavior.
2. apply a systemic approach to ethical decision-making.
3. understand all of the rights and responsibilities of physical therapy licensure as defined by the Oklahoma Physical Therapy Practice Act and Title 435, Chapter 20 of the Oklahoma Administrative Code.
4. evaluate their current physical therapy practices to ensure compliance with all relevant Oklahoma laws and rules
5. understand the principles of the APTA’s Code of Ethics and Guide for Professional Conduct
6. incorporate the principles of the APTA’s Code of Ethics and Guide for Professional conduct into their professional practice activities
7. understand patients’ rights relating to privacy of information as defined by the Federal HIPAA statutes
8. analyze and interpret clinical situations to determine appropriate professional ethical behavior.

COURSE INSTRUCTOR

Michael Niss PT

METHODS OF INSTRUCTION

Home study course available via internet or written correspondence.

CRITERIA FOR ISSUANCE OF CONTINUING EDUCATION CREDITS

A documented score of 70% or greater on the written post-test.

DETERMINATION OF CONTACT HOURS

“Ethics – Oklahoma Physical Therapy” will require at least 3 hours to complete. This estimate is based on the accepted standard for home study courses of approximately 12 pages of written text (12 pt font) per hour. The complete text of this course is 40 pages (excluding Bibliography and Post Test)

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ETHICS OVERVIEW

The word “ethics” is derived from the Greek word *ethos* (character), and from the Latin word *mores* (customs). Together, they combine to define how individuals choose to interact with one another. In philosophy, ethics defines what is good for the individual and for society and establishes the nature of duties that people owe themselves and one another. Ethics is also a field of human inquiry (“science” according to some definitions) that examines the bases of human goals and the foundations of “right” and “wrong” human actions that further or hinder these goals.

Why Ethics are Important

Ethics are important on several levels.

- People feel better about themselves and their profession when they work in an ethical manner.
- Professions recognize that their credibility rests not only on technical competence, but also on public trust.
- At the organizational level, ethics is good business. Several studies have shown that over the long run ethical businesses perform better than unethical businesses.

Ethics vs. Morals

Although the terms “ethics” and “morals” are often used interchangeably, they are not identical. Morals usually refer to practices; ethics refers to the rationale that may or may not support such practices. Morals refer to actions, ethics to the reasoning behind such actions. Ethics is an examined and carefully considered structure that includes both practice and theory. Morals include ethically examined practices, but may also include practices that have not been ethically analyzed, such as social customs, emotional responses to breaches of socially accepted practices and social prejudices. Ethics is usually at a higher intellectual level, more universal, and more dispassionate than morals. Some philosophers, however, use the term “morals” to describe a publicly agreed-upon set of rules for responding to ethical problems.

Ethical Questions

Ethical questions involve 1) responsibilities to the welfare of others or to the human community; or 2) conflicts among loyalties to different persons or groups, among responsibilities associated with one’s role (e.g. as consumer or provider), or among principles. Ethical questions include (or imply) the words “ought” or “should”.

ETHICS THEORIES

Throughout history, mankind has attempted to determine the philosophical basis from which to define right and wrong. Here are some of the more commonly accepted theories that have been proposed.

Utilitarianism

This philosophical theory develops from the work of Jeremy Bentham and John Stewart Mill. Simply put, utilitarianism is the theory that right and wrong is determined by the consequences. The basic tool of measurement is pleasure (Bentham) or happiness (Mill). A morally correct rule was the one that provided the greatest good to the greatest number of people.

Social Contract Theory

Social contract theory is attributed to Thomas Hobbes, John Locke, and from the twentieth century, John Rawls. Social contract theories believe that the moral code is created by the people who form societies. These people come together to create society for the purpose of protection and gaining other benefits of social cooperation. These persons agree to regulate and restrict their conduct to achieve this end.

Thomas Hobbes – Hobbes believed that people were by nature self-interested. Prior to the creation of society, these people live in the state of nature which is a state of war. Every person is out for their own purposes and good. There is no morality in the state of nature. Everyone in the state of nature has the right of nature in which nothing is prohibited which promotes your self-interest. Furthermore there is a law of nature which states that all people act to preserve their own lives, therefore, it is acceptable to do whatever is necessary to protect and defend their lives. This is why the first law of nature is to leave the state of nature. The drive for self-preservation dictates that persons need social relationships for the purpose of protection. Rationally self-interested individuals realize that they are more likely to be able to sustain and protect themselves if they have arrangements with other individuals with whom they agree to share goods, as well as cooperate and defend one another. So these people give up their right of nature to establish society. Then they establish a sovereign who establishes the rules governing conduct, making sure everyone abides by their agreements, and enforces the rules and agreements so that everyone is able to live in peace.

John Rawls – Rawls' theory is more of a hypothetical contract than Hobbes' theory. Rawls believes, like Hobbes, that people are rationally, self-interested. Additionally, persons are moral in that they have a sense of justice which is akin to Hume's notion of "fellow-feeling." This sense is like an additional sense to taste, touch, smell, etc. It allows persons to have a capacity of intuition regarding moral principles and the ability to analyze and understand them. It allows people to affirm and maintain relationships of love and friendship, further binding people

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to duties that arise from social/political relationships. By being rational, the persons have conceptions of their own good; they know what they need for their own life based on their own abilities, interests, and desires. These persons enter the original position which is analogous to Hobbes' state of nature being the situation prior to the creation of society. However, these persons are behind a veil of ignorance which blinds them to the specific details of their selves, who they are, what their rational plans of life are, what their condition of life is. All the persons in the original position behind the veil of ignorance know is general information about life itself. Not knowing the specifics of their conditions, persons then can deliberate about the principles which will govern their society. Rawls believes that all rational self-interested persons will come to the same two general principles, the principles of justice: (1) that all persons should have the same rights and liberties compatible with the rights and liberties of others; (2) that whatever social and economic inequalities there are should be the advantage of those who may be disadvantaged by them, and that all positions and offices should be available to everyone.

Deontological or Duty Theory

Under this theory you determine if an act or rule is morally right or wrong if it meets a moral standard. The morally important thing is not consequences but the way choosers think while they make choices. One famous philosopher who developed such a theory was Immanuel Kant (1724-1804).

Ethical Intuitionism

Under this view an act or rule is determined to be right or wrong by appeal to the common intuition of a person. This intuition is sometimes referred to as your conscience. Anyone with a normal conscience will know that it is wrong to kill an innocent person.

Ethical Egoism

This view is based on the theory that each person should do whatever promotes their own best interests; this becomes the basis for moral choices.

Natural Law Theory

This is a moral theory which claims that just as there are physical laws of nature, there are moral laws of nature that are discoverable. This theory is largely associated with Aristotle and Thomas Aquinas, who advocated that each thing has its own inherent nature, i.e. characteristic ways of behavior that belong to all members of its species and are appropriate to it. This nature determines what is good or bad for that thing. In the case of human beings, the moral laws of nature stem from our unique capacity for reason. When we act against our own reason, we are violating our nature, and therefore acting immorally.

Virtue Ethics

This ethics theory proposes that ethical behavior is a result of developed or inherent character traits or virtues. A person will do what is morally right because

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they are a virtuous person. Aristotle (384-322 B.C.) was a famous exponent of this view. Aristotle felt that virtue ethics was the way to attain true happiness. These are some of the commonly accepted virtues.

Autonomy: the duty to maximize the individual's right to make his or her own decisions.

Beneficence: the duty to do good.

Confidentiality: the duty to respect privacy of information.

Finality: the duty to take action that may override the demands of law, religion, and social customs.

Justice: the duty to treat all fairly, distributing the risks and benefits equally.

Nonmaleficence: the duty to cause no harm.

Understanding/Tolerance: the duty to understand and to accept other viewpoints if reason dictates.

Respect for persons: the duty to honor others, their rights, and their responsibilities.

Universality: the duty to take actions that hold for everyone, regardless of time, place, or people involved.

Veracity: the duty to tell the truth.

HOW TO MAKE RIGHT DECISIONS

The foundation for making proper ethical decisions is rooted in an individual's ability to answer several fundamental questions concerning their actions.

1. Is it legal?

Weighing the legality of one's actions is a prudent way to begin the decision-making process. The laws of a geographic region are a written code of that region's accepted rules of conduct. This code of conduct usually defines clearly which actions are considered acceptable and which actions are unacceptable. However, a legitimate argument can be made that sometimes what is legal is not always moral, and that sometimes what is moral is not always legal. This idea is easily demonstrated by the following situation.

It is illegal for a pedestrian to cross a busy street anywhere other than at the designated crosswalk (jaywalking). A man is walking down a street and sees someone fall and injure themselves on the other side of the street. He immediately crosses the street outside of the crosswalk to

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attend to the injured person. Are his actions legal? Are they moral? What if by stepping into the street he causes a car to swerve and to strike another vehicle?

Admittedly, with the exception of policemen and attorneys, most people do not know all of the specific laws that govern their lives. However, it is assumed that most people are familiar with the fundamental virtues from which these laws are based, and that they will live their lives in accordance with these virtues.

2. Is it ethical?

Professional ethical behavior as it is defined in this context relates to actions that are consistent with the normative standards established or practiced by others in the same profession. For physical therapists and physical therapist assistants, these ethical standards are documented in the APTA's Code of Ethics. All PT's and PTA's, even those who are not members of the APTA, are bound to these guidelines. This is because The APTA Code of Ethics is the accepted and de facto standard of practice throughout the profession.

3. Is it fair?

I think most people would agree that the concept of fairness is often highly subjective. However, for these purposes, we will define fairness as meaning deserved, equitable and unbiased. Fairness requires the decision-maker to have a complete understanding of benefits and liabilities to all parties affected by the decision. Decisions that result in capricious harm or arbitrary benefit cannot be considered fair. The goal of every decision should be an outcome of relative equity that reflects insightful thought and soundness of intent.

4. Would you want others to know of your decision?

This question presents as a true reflection of the other three. Legal, ethical, and fair are defined quite differently by most people when judged in the comfort of anonymity versus when it is examined before the forum of public opinion. Most often it is the incorrect assumption that "no one will ever find out about this" that leads people to commit acts of impropriety. How would your decisions change, if prior to taking any actions, you assumed just the opposite; "other people will definitely know what I have done". One sure sign of a poor decision is debating the possible exposure of an action instead of examining the appropriateness of it.

Oklahoma Administrative Code, Title 435, Chapter 20

(To read the O.A.C., Title 435, Chapter 20 in its entirety, go to:
<http://www.okmedicalboard.org/miscFunction.php?filename=PTRULES.pdf>)

435:20-5-8. Unprofessional conduct – Grounds for disciplinary action

(a) The Physical Therapy Advisory Committee may recommend to the Board to revoke or take other disciplinary action against a licensee or deny a license to an applicant for unprofessional conduct.

(b) Acts that constitute unprofessional conduct include, but are not limited to:

- (1) Procuring aiding or abetting a criminal operation.
- (2) Habitual intemperance or the habitual use of habit-forming drugs.
- (3) Conviction of a felony or of any offense involving moral turpitude.
- (4) Conviction or confession of a crime involving violation of the laws of this state.
- (5) Dishonorable or immoral conduct that is likely to deceive, defraud, or harm the public.
- (6) Aiding or abetting, directly or indirectly, the practice of physical therapy by any person not duly authorized under the laws of this state.
- (7) Engaging in physical conduct with a patient that is sexual in nature, or in any verbal behavior that is seductive or sexually demeaning to a patient.
- (8) Participation in fraud, abuse and/or violation of state or federal laws.
- (9) Any conduct which potentially or actually jeopardizes a patient's life, health or safety.
- (10) Verbally or physically abusing patients.
- (11) Discriminating in the rendering of patient care.
- (12) Negligence while in practice of physical therapy or violating the "Standards of Ethics and Professional Conduct" adopted by the Board.
- (13) Habitual intemperance or addicted use of any drug, chemical or substance that could result in behavior that interferes with the practice of physical therapy and the responsibilities of the licensee.
- (14) Unauthorized possession or use of illegal or controlled substances or pharmacological agents without lawful authority or prescription by an authorized and licensed independent practitioner of the State of Oklahoma.
- (15) Fraudulent billing practices and/or violation of Medicare and Medicaid laws or abusive billing practices.
- (16) Improper management of medical records, inaccurate recording, falsifying or altering of patient records.
- (17) Falsely manipulating patient's records or forging a prescription for medication/drugs, or presenting a forged prescription.

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(18) Aiding, abetting or assisting any other person to violate or circumvent any law, rule or regulation intended to guide the conduct of a physical therapist or physical therapist assistant.

(19) Being judged mentally incompetent by a court of competent jurisdiction.

(20) Failing to timely make application for license renewal.

(21) Falsifying documents submitted to the Physical Therapy Committee or the Oklahoma State Board of Medical Licensure and Supervision.

(22) Obtaining or attempting to obtain a license, certificate or documents of any form as a physical therapist or physical therapist assistant by fraud or deception.

(23) Cheating on or attempting to subvert the national physical therapy examination or skills assessment tests.

(24) Leaving a patient care assignment without properly advising the appropriate personnel.

(25) Violating the confidentiality of information or knowledge concerning a patient.

(26) Conviction of, or confession of or plea of no contest to a felony or misdemeanor.

(27) While engaged in the care of a patient, engaging in conduct with a patient, patient family member, or significant other that is seductive or sexually demeaning/exploitive in nature.

(28) Failure to report through proper channels the unsafe, unethical or illegal practice of any person who is providing care.

(29) Failure to furnish to the Board, its investigators or representatives, information lawfully requested by the Board.

(30) Failure to cooperate with a lawful investigation conducted by the Board.

(31) Violation of any provision(s) of the Physical Therapy Practice Act or the rules and regulations of the board or of an action, stipulation, agreement or order of the Board.

(32) Failure to report to the Board any adverse action taken against him or her by another licensing jurisdiction (United States or foreign), by any governmental agency, by any law enforcement agency, or by a court for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section.

(c) A physical therapist or physical therapist assistant who knowingly allows or participates with individual(s) who are in violation of the above will be prohibited from supervising other physical therapy practitioners for so long as the Board deems appropriate, and may themselves be subject to disciplinary action pursuant to their conduct.

435:20-5-9. Standards of Ethics and Professional Conduct

In the conduct of their professional activities, the physical therapist and physical therapist assistant shall be bound by the following ethical and professional principles. Physical therapists and physical therapist assistants shall:

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- (1) Respect the rights and dignity of all individuals and shall provide compassionate care.
- (2) Demonstrate behavior that reflects integrity, supports objectivity, and fosters trust in the profession and its professionals.
- (3) Comply with state and/or federal laws that govern and relate to physical therapy practice.
- (4) Exercise sound professional judgment and perform only those procedures or functions in which they are individually competent and that are within the scope of accepted and responsible practice. A physical therapist shall not delegate to a less qualified person any activity that requires the unique skill, knowledge, and judgment of the physical therapist. A physical therapist assistant shall provide selected physical therapy interventions only under the supervision and direction of the evaluating physical therapist. A physical therapist assistant shall make judgments that are commensurate with their education and legal qualifications as a physical therapist assistant.
- (5) Actively maintain and continually improve their professional competence and represent it accurately.
- (6) Maintain high standards by following sound scientific procedures and ethical principles in research and the practice of physical therapy.
- (7) Seek reasonable remuneration for physical therapy practice.
- (8) Provide and make available accurate and relevant information to patients about their care and maintain patient confidentiality.
- (9) May provide information to the public about societal benefits of physical therapy services. A physical therapist may advertise his/her services to the public.
- (10) Refuse to participate in illegal or unethical acts, and shall refuse to conceal illegal, unethical or incompetent acts of others.
- (11) Endeavor to address the health needs of society through pro bono services and/or community health services.
- (12) Respect the rights, knowledge and skills of colleagues and other healthcare professionals.

435:20-7-1. Supervision of Physical Therapist Assistants

(a) **Direct clinical on-site supervision.** Direct clinical on-site supervision is personal management and control of the clinical practice of the physical therapist assistant. The physical therapist delineates the specific tasks and duties to be performed. Direct clinical on-site supervision is in effect during the licensure process when a physical therapist signs the Form #5, Verification of Supervision. The physical therapist is on the premises, readily available to respond and provide direct clinical supervision. Such supervision shall be sufficient to assure that the assistant is practicing under the direction of a physical therapist.

(b) **General supervision.** General supervision is the responsible supervision and control of the practice of the licensed physical therapist assistant by the physical therapist. The supervising therapist is regularly and routinely on-site. When not on-site, the supervising therapist is on call and readily available physically or through direct telecommunication for consultation. In general supervision where the physical therapist is not routinely on-site, the supervision of the physical therapist assistant shall include the following:

(1) A physical therapist must be responsible for and participate in each patient's care. The physical therapist must perform an initial evaluation, identify problem areas, develop a written plan of care, and write or review and approve a written discharge summary.

(2) A current written treatment plan will be formulated for each patient under the care of the physical therapist. Appropriate for the practice setting, but no less frequently than every 30 calendar days, the physical therapist will document that the treatment plan has been reviewed and/or revised, stating revisions. Exceptions to this procedure may include:

(A) Instances in which the physical therapist has made a good faith attempt to visit the patient and review the treatment plan, however, due to circumstances beyond his/her control (such as unavailability of the patient) was unable to do so. In such cases, the physical therapist's documentation must show an attempt was made.

(B) Practice setting including but not limited to home health, educational facilities or long term care facilities in which care plans are reviewed periodically but no less frequently than 120 calendar days.

(3) The physical therapist assistant will respond to acute changes in the patient's physiological state and report these findings promptly to the physical therapist.

(c) **Responsible supervision.** A physical therapist will not sign the Form #5, Verification of Supervision to be the direct clinical supervisor for more than a total

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of three physical therapist assistants or applicants for licensure regardless of the type of professional licensure or level of training. It shall be the responsibility of the physical therapist to monitor the number of persons under his/her direct clinical supervision. It shall be the responsibility of the physical therapist assistant to inquire of the physical therapist in regards to the number of persons being directly supervised. In unique cases, a physical therapist may petition the Committee to receive permission to supervise additional physical therapist assistants or applicants. If responsible supervision is not practiced, both the physical therapist and physical therapist assistant are in violation of this rule.

(d) Limits of practice for the physical therapist assistant.

The physical therapist assistant may not:

- (1) Specify, other than to a physical therapist, perform or interpret definitive (decisive, conclusive, final) evaluative and assessment procedures. Definitive evaluation procedures may not be recommended to other than the patient's physical therapist, unless previously approved by the physical therapist.
- (2) Alter overall treatment, goals and/or plan.
- (3) Recommend wheelchairs, orthoses, prostheses, other assistive devices, or alterations to architectural barriers to persons other than a physical therapist.
- (4) File discharge documents for permanent record until approved by a physical therapist.
- (5) Perform duties or tasks for which he/she is not trained.

435:20-9-2. Continuing education requirements for renewal

- a) Beginning with the renewal period ending January 31, 2000 and every two years thereafter, the applicant for renewal of licensure shall sign a statement indicating whether or not continuing education requirements have been fulfilled for the preceding two-year period.
- (b) Effective January 1, 2004 and every two years thereafter, physical therapists will be required to show proof of forty (40) approved contact hours and Physical Therapist Assistants will be required to show proof of thirty (30) approved contact hours.
 - (1) At least half of the required hours must be Category A
 - (2) Three of the required hours must contain ethics education that includes the APTA Guide for Professional Conduct and the APTA Code of Ethics.
 - (3) No continuing education hours may be carried over from one compliance period to another.

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(c) Any applicant for renewal who cannot meet the requirements for continuing education may not renew until deficient hours are obtained and verified. Additionally, within the next compliance period the licensee will be required to obtain double the required hours of approved continuing education. At least half of the required hours must be Category A. Proof of meeting the additional requirements, as verified by an audit, will be required in order to renew at the end of the next compliance period. Failure to meet these additional requirements will result in disciplinary action.

(d) Each licensee is responsible for maintaining evidence/proof/record of participation in a continuing education experience for a minimum of four years. Copies of such proof shall be submitted to the Board upon request. Such proof shall include:

- (1) date, place, course title, schedule, presenter(s), etc.,
- (2) number of contact hours for activity,
- (3) proof of completion, such as abstracts, certificates of attendance, or other certification of completion.

(e) Any physical therapist or physical therapist assistant initially licensed in Oklahoma during the second year of an accounting period shall be exempt from the continuing education requirements for that first renewal period.

(f) The Physical Therapy Committee shall conduct random audits of the continuing education records of the number of licensees that time and resources permit. The Physical Therapy Committee may appoint a sub-committee to review audits and requests for approval of continuing education experiences and make recommendations to the Physical Therapy Committee for disposition.

(g) Penalties for failure to comply with continuing education requirements may be assessed after notice and hearing as required by law. Penalties may include imposition of additional continuing education contact hours, probation of license, suspension of license, or revocation of license.

(h) Failure to maintain records of continuing education rebuts the presumption that continuing education requirements have been completed.

(i) Misrepresenting compliance with continuing education requirements constitutes a fraudulent application.

435:20-9-3. Continuing education categories

(a) Approval for continuing education.

- (1) To receive initial approval for a continuing education offering of either category, submission of an Application for Approval of Continuing Physical Therapy Education form is required.
- (2) Individual participants are responsible for maintaining these records.
- (3) Physical therapists and physical therapist assistants working less than 250 hours per year may request permission to earn all contact hours from Category B.
- (4) Pre-approval is required for guaranteed credit under either Category.

(b) Category A – synchronous educational opportunities. At least half of the required contact hours must be acquired from Category A. Contact hours considered under Category A involve synchronous or real-time interaction

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between the course instructor and physical therapists or physical therapist assistants, with opportunity for immediate feedback.

(c) **Category B – other.** Contact hours considered under Category B may involve either synchronous or asynchronous instructional delivery and may or may not include feedback for the learner. It is recommended that continuing education in this category be pre-approved.

(1) Opportunities under Category B continuing education include:

(A) Pre-approval for guaranteed credit and determination of contact hours is recommended for continuing education approved by other U.S. physical therapy licensing bodies, APTA or its components that is consistent with the criteria for Category B as stated under 435: 20-9-3.

(B) Study groups - A series of meetings designed for intense study in a physical therapy related topic. A minimum of four participants and four hours of participation are required for continuing education eligibility. Those seeking approval for a group study project shall submit a full description including an outline of the topics and subtopics, bibliographical citations or copies of the printed materials, a time and place of study, the methods to be used, the number of hours of credit sought, and any other information relevant to the evaluation of the proposed projects.

(C) Individualized instruction - This may include but not be limited to activities such as reading professional literature or reviewing video/audio programs, and other asynchronous instructional opportunities such as home study or Internet courses relating to physical therapy practice extending beyond basic preparation of the licensee. In order to count any individualized instruction toward Category B hours, the licensee must write an original summary of each learning experience, reflecting the value of the experience with respect to the practice of physical therapy. Each summary must be typewritten and approximately 250 words in length, or one (1) page, double-spaced. Video and audio programs must consist of a minimum of 60 minutes of running time per contact hour. Each peer-reviewed article or each chapter in a book will equal one contact hour. The Committee will consider recommendations by the course author(s) as to contact hours for asynchronous course work, but will reserve judgment as to the approved quantity of contact hours. Limitations on contact hours under Individualized Instruction for continuing education requirements are:

(i) reading peer-reviewed literature - 4 contact hours maximum per compliance period.

(ii) video or audio programs - 3 contact hours maximum per compliance period.

(D) Presentation of program - A licensee who presents an original continuing education program targeted towards peers and other health care professionals may receive continuing education credit.

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No credit shall be given for repeated presentations. Reiteration of information obtained from attendance at a continuing education program will not qualify.

(E) Publication - Writing for professional publication may be awarded continuing education credit. Actual number of contact hours granted will be determined by the Committee. Acceptance for publication must occur within the current compliance period. Contact hours will not be approved for repeat publication of the same material.

(i) Each published paper and/or chapter may receive a maximum of fifteen (15) contact hours.

(ii) Each published abstract and/or book review may receive a maximum of ten (10) contact hours.

(iii) Each published case study/report may receive a maximum of ten (10) contact hours.

(F) Learning opportunities not listed above may be considered for continuing education credit, but will require pre-approval.

(G) Activities not accepted - Examples of activities that will not be accepted include but are not limited to:

(i) Regularly scheduled education opportunities provided within an institution, such as rounds or on-the-job required in-service training such as CPR, bloodborne pathogens, equipment or procedural updates.

(ii) Staff meetings.

(iii) Meetings, workshops or seminars held by personnel with less medical training than registered physical therapists or physical therapist assistants.

(iv) Publications for the lay public.

(v) Presentations to lay groups and non-professionals.

(vi) Teaching personnel, students or staff within one's job requirement.

(vii) Non-educational meetings, entertainment or recreational activities at professional meetings.

(viii) APTA, chapter or section offices or committee appointment.

OKLAHOMA PHYSICAL THERAPY PRACTICE ACT

(To read the Oklahoma PT Practice Act in its entirety, go to:
<http://www.okmedicalboard.org/miscFunction.php?filename=PTLAW.pdf>)

887.13. Refusal, suspension or revocation of license

The Board may refuse to issue or renew, or may suspend or revoke a license to any person, after notice and hearing in accordance with rules and regulations

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promulgated pursuant to the Physical Therapy Practice Act and the provisions of the Administrative Procedures Act of the Oklahoma Statutes who has:

1. Practiced physical therapy other than under the referral of a physician, surgeon, dentist, chiropractor or podiatrist duly licensed to practice medicine or surgery or in the case of practice as a physical therapist assistant, has practiced other than under the direction of a licensed physical therapist;
2. Treated or attempted to treat ailments or other health conditions of human beings other than by physical therapy as authorized by the Physical Therapy Practice Act;
3. Failed to refer patients to other health care providers if symptoms are known to be present for which physical therapy treatment is inadvisable or if symptoms indicate conditions for which treatment is outside the standards of practice as specified in the rules and regulations promulgated by the Board pursuant to the provisions of the Physical Therapy Practice Act;
4. Used drugs, narcotics, medication, or intoxicating liquors to an extent which affects the professional competency of the applicant or licensee;
5. Been convicted of a felony or of a crime involving moral turpitude;
6. Obtained or attempted to obtain a license as a physical therapist or physical therapist assistant by fraud or deception;
7. Been grossly negligent in the practice of physical therapy or in acting as a physical therapist assistant;
8. Been adjudged mentally incompetent by a court of competent jurisdiction and has not subsequently been lawfully declared sane;
9. Been guilty of conduct unbecoming a person licensed as a physical therapist or physical therapist assistant or guilty of conduct detrimental to the best interests of the public or his profession;
10. Been guilty of any act in conflict with the ethics of the profession of physical therapy; or
11. Had his license suspended or revoked in another state.

887.17. Referrals by physicians and surgeons - Agents - Exceptions

A.

1. Any person licensed under this act as a physical therapist or physical therapist assistant shall treat human ailments by physical therapy only

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under the referral of a person licensed as a physician or surgeon with unlimited license and Doctors of Dentistry, Chiropractic and Podiatry, with those referrals being limited to their respective areas of training and practice; provided, however, a physical therapist may provide services within the scope of physical therapy practice without a physician referral to children who receive physical therapy services pursuant to the Individuals with Disabilities Education Improvement Act of 2004, as may be amended, and the Rehabilitation Act of 1973, Section 504, as may be amended. Provided further, a plan of care developed by a person authorized to provide services within the scope of the Physical Therapy Practice Act shall be deemed to be a prescription for purposes of providing services pursuant to the provisions of the Individuals with Disabilities Education Improvement Act of 2004, as may be amended, and Section 504 of the Rehabilitation Act of 1973, as may be amended.

2. Nothing in this act shall prevent a physical therapist from performing screening and educational procedures within the scope of physical therapy practice without a physician referral.

3. Nothing in this act shall be construed as authorization for a physical therapist or physical therapist assistant to practice any branch of the healing art.

4. Any person violating the provisions of this act shall be guilty of a misdemeanor as per Section 887.16 of this title.

B.

1. The provisions of this act are not intended to limit the activities of persons legitimately engaged in the non-therapeutic administration of baths, massage, and normal exercise.

2. This act shall not prohibit students who are enrolled in schools of physical therapy approved by the State Board of Medical Licensure and Supervision from performing such work as is incidental to their course of study; nor shall it prevent any student in any recognized school of the healing art in carrying out prescribed courses of study; provided such school is a recognized institution by the statutes of Oklahoma, and its practitioners are duly licensed as prescribed by law.

3. Nothing in this act shall apply to any person employed by an agency, bureau, or division of the federal government while in the discharge of official duties, however, if such individual engages in the practice of physical therapy outside the line of official duty, the individual must be licensed as herein provided.

APTA CODE OF ETHICS

Preamble

This Code of Ethics of the American Physical Therapy Association sets forth principles for the ethical practice of physical therapy. All physical therapists are responsible for maintaining and promoting ethical practice. To this end, the physical therapist shall act in the best interest of the patient/client. This Code of Ethics shall be binding on all physical therapists.

Principle 1

A physical therapist shall respect the rights and dignity of all individuals and shall provide compassionate care.

Principle 2

A physical therapist shall act in a trustworthy manner towards patients/clients, and in all other aspects of physical therapy practice.

Principle 3

A physical therapist shall comply with laws and regulations governing physical therapy and shall strive to effect changes that benefit patients/clients.

Principle 4

A physical therapist shall exercise sound professional judgment.

Principle 5

A physical therapist shall achieve and maintain professional competence.

Principle 6

A physical therapist shall maintain and promote high standards for physical therapy practice, education and research.

Principle 7

A physical therapist shall seek only such remuneration as is deserved and reasonable for physical therapy services.

Principle 8

A physical therapist shall provide and make available accurate and relevant information to patients/clients about their care and to the public about physical therapy services.

Principle 9

A physical therapist shall protect the public and the profession from unethical, incompetent, and illegal acts.

Principle 10

A physical therapist shall endeavor to address the health needs of society.

Principle 11

A physical therapist shall respect the rights, knowledge, and skills of colleagues and other health care professionals.

THE GUIDE FOR PROFESSIONAL CONDUCT

Purpose

This *Guide for Professional Conduct* (Guide) is intended to serve physical therapists in interpreting the *Code of Ethics* (Code) of the American Physical Therapy Association (Association), in matters of professional conduct. The Guide provides guidelines by which physical therapists may determine the propriety of their conduct. It is also intended to guide the professional development of physical therapist students. The Code and the Guide apply to all physical therapists. These guidelines are subject to changes as the dynamics of the profession change and as new patterns of health care delivery are developed and accepted by the professional community and the public.

Guide for Conduct of the Physical Therapist

Principle 1

A physical therapist shall respect the rights and dignity of all individuals and shall provide compassionate care.

1.1 Attitudes of a Physical Therapist

- A. A physical therapist shall recognize individual differences and shall respect and be responsive to those differences.
- B. A physical therapist shall be guided by concern for the physical, psychological, and socioeconomic welfare of patients/clients.
- C. A physical therapist shall not harass, abuse, or discriminate against others.
- D. A physical therapist shall be aware of the patient's health-related needs and act in a manner that facilitates meeting those needs.

Principle 2

A physical therapist shall act in a trustworthy manner towards patients/clients, and in all other aspects of physical therapy practice.

2.1 Patient/Physical Therapist Relationship

- A. To act in a trustworthy manner the physical therapist shall act in the patient/client's best interest. Working in the patient/client's best interest requires knowledge of the patient/client's needs from the patient/client's perspective. Patients/clients often come to the physical therapist in a vulnerable state and normally will rely on the physical therapist's advice, which they perceive to be based on superior knowledge, skill, and experience. The trustworthy physical therapist acts to ameliorate the patient's/client's vulnerability, not to exploit it.
- B. A physical therapist shall not exploit any aspect of the physical therapist/patient relationship.

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- C. A physical therapist shall not engage in any sexual relationship or activity, whether consensual or nonconsensual, with any patient while a physical therapist/patient relationship exists.
- D. The physical therapist shall create an environment that encourages an open dialogue with the patient/client.
- E. In the event the physical therapist or patient terminates the physical therapist/patient relationship while the patient continues to need physical therapy services, the physical therapist should take steps to transfer the care of the patient to another provider.

2.2 Truthfulness

A physical therapist shall not make statements that he/she knows or should know are false, deceptive, fraudulent, or unfair. See Section 8.2.D.

2.3 Confidential Information

- A. Information relating to the physical therapist/patient relationship is confidential and may not be communicated to a third party not involved in that patient's care without the prior consent of the patient, subject to applicable law.
- B. Information derived from peer review shall be held confidential by the reviewer unless the physical therapist who was reviewed consents to the release of the information.
- C. A physical therapist may disclose information to appropriate authorities when it is necessary to protect the welfare of an individual or the community or when required by law. Such disclosure shall be in accordance with applicable law.

2.4 Patient Autonomy and Consent

- A. A physical therapist shall not restrict patients' freedom to select their provider of physical therapy.
- B. A physical therapist shall communicate to the patient/client the findings of his/her examination, evaluation, diagnosis, and prognosis.
- C. A physical therapist shall collaborate with the patient/client to establish the goals of treatment and the plan of care.
- D. A physical therapist shall inform the patient/client of the benefits, costs, and substantial risks (if any) of the recommended intervention and treatment alternatives.
- E. A physical therapist shall respect the patient's/client's right to make decisions regarding the recommended plan of care, including consent, modification, or refusal.

Principle 3

A physical therapist shall comply with laws and regulations governing physical therapy and shall strive to effect changes that benefit patients/clients.

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3.1 Professional Practice

A physical therapist shall provide examination, evaluation, diagnosis, prognosis, and intervention. A physical therapist shall not engage in any unlawful activity that substantially relates to the qualifications, functions, or duties of a physical therapist.

3.2 Just Laws and Regulations

A physical therapist shall advocate the adoption of laws, regulations, and policies by providers, employers, third party payers, legislatures, and regulatory agencies to provide and improve access to necessary health care services for all individuals.

3.3 Unjust Laws and Regulations

A physical therapist shall endeavor to change unjust laws, regulations, and policies that govern the practice of physical therapy. See Section 10.2.

Principle 4

A physical therapist shall exercise sound professional judgment.

4.1 Professional Responsibility

- A. A physical therapist shall make professional judgments that are in the patient/client's best interests.
- B. Regardless of practice setting, a physical therapist has primary responsibility for the physical therapy care of a patient and shall make independent judgments regarding that care consistent with accepted professional standards. See Section 2.4.
- C. A physical therapist shall not provide physical therapy services to a patient/client while his/her ability to do so safely is impaired.
- D. A physical therapist shall exercise sound professional judgment based upon his/her knowledge, skill, education, training, and experience.
- E. Upon accepting a patient/client for physical therapy services, a physical therapist shall be responsible for: the examination, evaluation, and diagnosis of that individual; the prognosis and intervention; re-examination and modification of the plan of care; and the maintenance of adequate records, including progress reports. A physical therapist shall establish the plan of care and shall provide and/or supervise and direct the appropriate interventions. See Section 2.4.
- F. If the diagnostic process reveals findings that are outside the scope of the physical therapist's knowledge, experience, or expertise, the physical therapist shall so inform the patient/client and refer to an appropriate practitioner.

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G. When the patient has been referred from another practitioner, the physical therapist shall communicate the findings of the examination and evaluation, the diagnosis, the proposed intervention, and re-examination findings (as indicated) to the referring practitioner.

H. A physical therapist shall determine when a patient/client will no longer benefit from physical therapy services.

4.2 Direction and Supervision

A. The supervising physical therapist has primary responsibility for the physical therapy care rendered to a patient/client.

B. A physical therapist shall not delegate to a less qualified person any activity that requires the unique skill, knowledge, and judgment of the physical therapist.

4.3 Practice Arrangements

A. Participation in a business, partnership, corporation, or other entity does not exempt physical therapists, whether employers, partners, or stockholders, either individually or collectively, from the obligation to promote, maintain and comply with the ethical principles of the Association.

B. A physical therapist shall advise his/her employer(s) of any employer practice that causes a physical therapist to be in conflict with the ethical principles of the Association. A physical therapist shall seek to eliminate aspects of his/her employment that are in conflict with the ethical principles of the Association.

4.4 Gifts and Other Consideration

A physical therapist shall not accept or offer gifts or other considerations that affect or give an appearance of affecting his/her professional judgment.

Principle 5

A physical therapist shall achieve and maintain professional competence.

5.1 Scope of Competence

A physical therapist shall practice within the scope of his/her competence and commensurate with his/her level of education, training and experience.

5.2 Self-assessment

A physical therapist shall engage in self-assessment, which is a lifelong professional responsibility for maintaining competence.

5.3 Professional Development

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A physical therapist shall participate in educational activities that enhance his/her basic knowledge and skills.

Principle 6

A physical therapist shall maintain and promote high standards for physical therapy practice, education and research.

6.1 Professional Standards

A physical therapist shall know the accepted professional standards when engaging in physical therapy practice, education and/or research. A physical therapist shall continuously engage in assessment activities to determine compliance with these standards. If a physical therapist is not in compliance with these standards, he/she shall engage in activities designed to reach compliance with the standards. When a physical therapist is in compliance with these standards, he/she shall engage in activities designed to maintain such compliance.

6.2 Practice

- A. A physical therapist shall achieve and maintain professional competence. See Section 5.
- B. A physical therapist shall demonstrate his/her commitment to quality improvement by engaging in peer and utilization review and other self-assessment activities.

6.3 Professional Education

- A. A physical therapist shall support high-quality education in academic and clinical settings.
- B. A physical therapist participating in the educational process is responsible to the students, the academic institutions, and the clinical settings for promoting ethical conduct. A physical therapist shall model ethical behavior and provide the student with information about the Code of Ethics, opportunities to discuss ethical conflicts, and procedures for reporting unresolved ethical conflicts. See Section 9.

6.4 Continuing Education

- A. A physical therapist providing continuing education must be competent in the content area.
- B. When a physical therapist provides continuing education, he/she shall ensure that course content, objectives, faculty credentials, and responsibilities of the instructional staff are accurately stated in the promotional and instructional course materials.
- C. A physical therapist shall evaluate the efficacy and effectiveness of information and techniques presented in continuing education programs before integrating them into his or her practice.

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6.5 Research

- A. A physical therapist shall support research activities that contribute knowledge for improved patient care.
- B. A physical therapist shall report to appropriate authorities any acts in the conduct or presentation of research that appear unethical or illegal. See Section 9.

Principle 7

A physical therapist shall seek only such remuneration as is deserved and reasonable for physical therapy services.

7.1 Business and Employment Practices

- A. A physical therapist's business/employment practices shall be consistent with the ethical principles of the Association.
- B. A physical therapist shall never place her/his own financial interest above the welfare of individuals under his/her care.
- C. A physical therapist shall recognize that third-party payer contracts may limit, in one form or another, the provision of physical therapy services. Third-party limitations do not absolve the physical therapist from making sound professional judgments that are in the patient's best interest. A physical therapist shall avoid underutilization of physical therapy services.
- D. When a physical therapist's judgment is that a patient will receive negligible benefit from physical therapy services, the physical therapist shall not provide or continue to provide such services if the primary reason for doing so is to further the financial self-interest of the physical therapist or his/her employer. A physical therapist shall avoid overutilization of physical therapy services.
- E. Fees for physical therapy services should be reasonable for the service performed, considering the setting in which it is provided, practice costs in the geographic area, judgment of other organizations, and other relevant factors.
- F. A physical therapist shall not directly or indirectly request, receive, or participate in the dividing, transferring, assigning, or rebating of an unearned fee.
- G. A physical therapist shall not profit by means of a credit or other valuable consideration, such as an unearned commission, discount, or gratuity, in connection with the furnishing of physical therapy services.
- H. Unless laws impose restrictions to the contrary, physical therapists who provide physical therapy services within a business entity may pool fees and monies received. Physical therapists may divide or apportion these fees and monies in accordance with the business agreement.

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I. A physical therapist may enter into agreements with organizations to provide physical therapy services if such agreements do not violate the ethical principles of the Association or applicable laws.

7.2 Endorsement of Products or Services

A. A physical therapist shall not exert influence on individuals under his/her care or their families to use products or services based on the direct or indirect financial interest of the physical therapist in such products or services. Realizing that these individuals will normally rely on the physical therapist's advice, their best interest must always be maintained, as must their right of free choice relating to the use of any product or service. Although it cannot be considered unethical for physical therapists to own or have a financial interest in the production, sale, or distribution of products/services, they must act in accordance with law and make full disclosure of their interest whenever individuals under their care use such products/services.

B. A physical therapist may receive remuneration for endorsement or advertisement of products or services to the public, physical therapists, or other health professionals provided he/she discloses any financial interest in the production, sale, or distribution of said products or services.

C. When endorsing or advertising products or services, a physical therapist shall use sound professional judgment and shall not give the appearance of Association endorsement unless the Association has formally endorsed the products or services.

7.3 Disclosure

A physical therapist shall disclose to the patient if the referring practitioner derives compensation from the provision of physical therapy.

Principle 8

A physical therapist shall provide and make available accurate and relevant information to patients/clients about their care and to the public about physical therapy services.

8.1 Accurate and Relevant Information to the Patient

A. A physical therapist shall provide the patient/client information about his/her condition and plan of care. See Section 2.4.

B. Upon the request of the patient, the physical therapist shall provide, or make available, the medical record to the patient or a patient-designated third party.

C. A physical therapist shall inform patients of any known financial limitations that may affect their care.

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D. A physical therapist shall inform the patient when, in his/her judgment, the patient will receive negligible benefit from further care. See Section 7.1.C.

8.2 Accurate and Relevant Information to the Public

A. A physical therapist shall inform the public about the societal benefits of the profession and who is qualified to provide physical therapy services.

B. Information given to the public shall emphasize that individual problems cannot be treated without individualized examination and plans/programs of care.

C. A physical therapist may advertise his/her services to the public.

D. A physical therapist shall not use, or participate in the use of, any form of communication containing a false, plagiarized, fraudulent, deceptive, unfair, or sensational statement or claim.

E. A physical therapist who places a paid advertisement shall identify it as such unless it is apparent from the context that it is a paid advertisement.

Principle 9

A physical therapist shall protect the public and the profession from unethical, incompetent, and illegal acts.

9.1 Consumer Protection

A. A physical therapist shall provide care that is within the scope of practice as defined by the state practice act.

B. A physical therapist shall not engage in any conduct that is unethical, incompetent or illegal.

C. A physical therapist shall report any conduct that appears to be unethical, incompetent, or illegal.

D. A physical therapist may not participate in any arrangements in which patients are exploited due to the referring sources' enhancing their personal incomes as a result of referring for, prescribing, or recommending physical therapy.

Principle 10

A physical therapist shall endeavor to address the health needs of society.

10.1 Pro Bono Service

A physical therapist shall render pro bono publico (reduced or no fee) services to patients lacking the ability to pay for services, as each physical therapist's practice permits.

10.2 Community Health

A physical therapist shall endeavor to support activities that benefit the health status of the community. See Section 3.

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Principle 11

A physical therapist shall respect the rights, knowledge, and skills of colleagues and other healthcare professionals.

11.1 Consultation

A physical therapist shall seek consultation whenever the welfare of the patient will be safeguarded or advanced by consulting those who have special skills, knowledge, and experience.

11.2 Patient/Provider Relationships

A physical therapist shall not undermine the relationship(s) between his/her patient and other healthcare professionals.

11.3 Disparagement

Physical therapists shall not disparage colleagues and other health care professionals. See Section 9 and Section 2.4.A.

Guide for Conduct of the Physical Therapist Assistant

Standard 1

A physical therapist assistant shall respect the rights and dignity of all individuals and shall provide compassionate care.

1.1 Attitude of a physical therapist assistant

A. A physical therapist assistant shall demonstrate sensitivity to individual and cultural differences.

B. A physical therapist assistant shall be guided at all times by concern for the physical and psychological welfare of patients/clients.

C. A physical therapist assistant shall not harass, abuse, or discriminate against others.

Standard 2

A physical therapist assistant shall act in a trustworthy manner towards patients/clients.

2.1 Trustworthiness

A. To act in a trustworthy manner a physical therapist assistant shall act in the patient's/client's best interest. Working in the patient's/client's best interest requires sensitivity to the patient's/client's vulnerability and an effective working relationship between the physical therapist and the physical therapist assistant.

B. A physical therapist assistant shall act to ameliorate the patient's/client's vulnerability, not to exploit it.

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C. A physical therapist assistant shall clearly identify him/herself as a physical therapist assistant to patients/clients.

D. A physical therapist assistant shall conduct him/herself in a manner that supports the physical therapist/patient relationship.

E. A physical therapist assistant shall not engage in any sexual relationship or activity, whether consensual or nonconsensual, with any patient entrusted to his/her care.

F. A physical therapist assistant shall not invite, accept, or offer gifts or other considerations that affect or give an appearance of affecting his/her provision of physical therapy interventions.

2.2 Exploitation of Patients

A physical therapist assistant shall not participate in any arrangements in which patients/clients are exploited. Such arrangements include situations where referring sources enhance their personal incomes as a result of referring for, delegating, prescribing, or recommending physical therapy services.

2.3 Truthfulness

A. A physical therapist assistant shall not make statements that he/she knows or should know are false, deceptive, fraudulent, or unfair.

B. Although it cannot be considered unethical for a physical therapist assistant to own or have a financial interest in the production, sale, or distribution of products/services, he/she must act in accordance with law and make full disclosure of his/her interest to patients/clients.

2.4 Confidential Information

A. Information relating to the patient/client is confidential and may not be communicated to a third party not involved in that patient's care without the prior consent of the patient, subject to applicable law.

B. A physical therapist assistant shall refer all requests for release of confidential information to the supervising physical therapist.

Standard 3

A physical therapist assistant shall provide selected physical therapy interventions only under the supervision and direction of a physical therapist.

3.1 Supervisory Relationship

A. A physical therapist assistant shall provide services only under the supervision and direction of a physical therapist.

B. A physical therapist assistant shall provide only those physical therapy interventions that have been selected by the physical therapist.

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C. A physical therapist assistant shall not carry out any selected physical therapy interventions that are outside his/her education, training, experience, or skill and shall notify the physical therapist.

D. A physical therapist assistant may adjust specific interventions within the plan of care established by the physical therapist in response to changes in the patient's/client's status.

E. A physical therapist assistant shall not perform examinations or evaluations, interpret data, determine diagnosis or prognosis, or establish or alter a plan of care.

F. Consistent with the physical therapist assistant's education, training, knowledge, and experience, he/she may respond to the patient's/client's inquiries regarding interventions that are within the established plan of care.

G. A physical therapist assistant shall have regular and ongoing communication with the physical therapist regarding the patient's/client's status.

Standard 4

A physical therapist assistant shall comply with laws and regulations governing physical therapy.

4.1 Supervision

A physical therapist assistant shall know and comply with applicable law. Regardless of the content of any law, a physical therapist assistant shall provide services only under the supervision and direction of a physical therapist.

4.2 Representation

A physical therapist assistant shall not hold him/herself out as a physical therapist.

Standard 5

A physical therapist assistant shall achieve and maintain competence in the provision of selected physical therapy interventions.

5.1 Competence

A physical therapist assistant shall provide interventions consistent with his/her level of education, training, experience, and skill.

5.2 Self-assessment

A physical therapist assistant shall engage in self-assessment in order to maintain competence.

5.3 Development

A physical therapist assistant shall participate in educational activities that enhance his/her basic knowledge and skills.

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Standard 6

A physical therapist assistant shall make judgments that are commensurate with their educational and legal qualifications as a physical therapist assistant.

6.1 Patient Safety

A. A physical therapist assistant shall discontinue immediately any components of interventions that, in his/her judgment, appear to be harmful to the patient and shall discuss his/her concerns with the physical therapist.

B. A physical therapist assistant shall not carry out any selected physical therapy interventions that are outside his/her education, training, experience, or skill and shall notify the physical therapist.

C. A physical therapist assistant shall not perform interventions while his/her ability to do so safely is impaired.

6.2 Patient Status Judgments

A physical therapist assistant participates in patient status judgments by reporting changes to the physical therapist and requesting patient re-examination or revision of the plan of care. See Section 3.1.

6.3 Gifts and Other Considerations

A physical therapist assistant shall not invite, accept, or offer gifts or other considerations that affect or give the appearance of affecting his/her provision of physical therapy interventions or that exploit the patient in any way. See Section 2.1(B).

Standard 7

A physical therapist assistant shall protect the public and the profession from unethical, incompetent, and illegal acts.

7.1 Consumer Protection

A physical therapist assistant shall report any conduct that appears to be unethical or illegal.

7.2 Organizational Employment

A. A physical therapist assistant shall inform his/her employer(s) and/or appropriate physical therapist of any employer practice that causes him or her to be in conflict with the Standards of Ethical Conduct for the Physical Therapist Assistant.

B. A physical therapist assistant shall not engage in any activity that puts him or her in conflict with the Standards of Ethical Conduct for the Physical Therapist Assistant, regardless of directives from a physical therapist or employer.

HIPAA AND PATIENT PRIVACY

In April 2001, the first-ever federal privacy standards to protect patients' medical records and other health information provided to health plans, doctors, hospitals and other health care providers went into effect. These standards provide patients with access to their medical records and more control over how their personal health information is used and disclosed.

Covered Entities

HIPAA regulations include health plans, health care clearinghouses, and those health care providers who conduct certain financial and administrative transactions (e.g., enrollment, billing and eligibility verification) electronically.

Information Protected

Medical records and other individually identifiable health information used or disclosed by a covered entity in any form, whether electronically, on paper, or orally, are covered by the final rule.

Patient Protections

The new privacy regulations ensure a national floor of privacy protections for patients by limiting the ways that health plans, pharmacies, hospitals and other covered entities can use patients' personal medical information. The regulations protect medical records and other individually identifiable health information, whether it is on paper, in computers or communicated orally. Key provisions of these new standards include:

- **Access To Medical Records.** Patients generally should be able to see and obtain copies of their medical records and request corrections if they identify errors and mistakes. Health plans, doctors, hospitals, clinics, nursing homes and other covered entities generally should provide access to these records within 30 days and may charge patients for the cost of copying and sending the records.
- **Notice of Privacy Practices.** Covered health plans, doctors and other health care providers must provide a notice to their patients how they may use personal medical information and their rights under the new privacy regulation. Doctors, hospitals and other direct-care providers generally will provide the notice on the patient's first visit and upon request. Patients generally will be asked to sign, initial or otherwise acknowledge that they received this notice. Patients also may ask covered entities to restrict the use or disclosure of their information beyond the practices included in the notice, but the covered entities would not have to agree to the changes.
- **Limits on Use of Personal Medical Information.** The privacy rule sets limits on how health plans and covered providers may use individually

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identifiable health information. To promote the best quality care for patients, the rule does not restrict the ability of doctors, nurses and other providers to share information needed to treat their patients. In other situations, though, personal health information generally may not be used for purposes not related to health care, and covered entities may use or share only the minimum amount of protected information needed for a particular purpose. In addition, patients would have to sign a specific authorization before a covered entity could release their medical information to a life insurer, a bank, a marketing firm or another outside business for purposes not related to their health care.

- **Prohibition on Marketing.** The final privacy rule sets new restrictions and limits on the use of patient information for marketing purposes. Pharmacies, health plans and other covered entities must first obtain an individual's specific authorization before disclosing their patient information for marketing. At the same time, the rule permits doctors and other covered entities to communicate freely with patients about treatment options and other health-related information, including disease-management programs.
- **Stronger State Laws.** The new federal privacy standards do not affect state laws that provide additional privacy protections for patients. The confidentiality protections are cumulative; the privacy rule will set a national "floor" of privacy standards that protect all Americans, and any state law providing additional protections would continue to apply. When a state law requires a certain disclosure -- such as reporting an infectious disease outbreak to the public health authorities -- the federal privacy regulations would not preempt the state law.
- **Confidential communications.** Under the privacy rule, patients can request that their doctors, health plans and other covered entities take reasonable steps to ensure that their communications with the patient are confidential. For example, a patient could ask a doctor to call his or her office rather than home, and the doctor's office should comply with that request if it can be reasonably accommodated.
- **Complaints.** Consumers may file a formal complaint regarding the privacy practices of a covered health plan or provider. Such complaints can be made directly to the covered provider or health plan or to HHS' Office for Civil Rights (OCR), which is charged with investigating complaints and enforcing the privacy regulation. Information about filing complaints should be included in each covered entity's notice of privacy practices.

Health Plans and Providers

The privacy rule requires health plans, pharmacies, doctors and other covered entities to establish policies and procedures to protect the confidentiality of protected health information about their patients. These requirements are flexible and scalable to allow different covered entities to implement them as appropriate

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for their businesses or practices. Covered entities must provide all the protections for patients cited above, such as providing a notice of their privacy practices and limiting the use and disclosure of information as required under the rule. In addition, covered entities must take some additional steps to protect patient privacy:

- **Written Privacy Procedures.** The rule requires covered entities to have written privacy procedures, including a description of staff that has access to protected information, how it will be used and when it may be disclosed. Covered entities generally must take steps to ensure that any business associates who have access to protected information agree to the same limitations on the use and disclosure of that information.
- **Employee Training and Privacy Officer.** Covered entities must train their employees in their privacy procedures and must designate an individual to be responsible for ensuring the procedures are followed. If covered entities learn an employee failed to follow these procedures, they must take appropriate disciplinary action.
- **Public Responsibilities.** In limited circumstances, the final rule permits -- but does not require -- covered entities to continue certain existing disclosures of health information for specific public responsibilities. These permitted disclosures include: emergency circumstances; identification of the body of a deceased person, or the cause of death; public health needs; research that involves limited data or has been independently approved by an Institutional Review Board or privacy board; oversight of the health care system; judicial and administrative proceedings; limited law enforcement activities; and activities related to national defense and security. The privacy rule generally establishes new safeguards and limits on these disclosures. Where no other law requires disclosures in these situations, covered entities may continue to use their professional judgment to decide whether to make such disclosures based on their own policies and ethical principles.
- **Equivalent Requirements For Government.** The provisions of the final rule generally apply equally to private sector and public sector covered entities. For example, private hospitals and government-run hospitals covered by the rule have to comply with the full range of requirements.

ETHICS AND JURISPRUDENCE CASE STUDIES

Case Study #1 - Confidentiality

John Jones PT, Sue Brown (therapy receptionist), and Mary Smith (Therapy managed care contracting), are in a private PT office discussing the fact that they are treating Biff Simpson, a star NFL quarterback. John says, "I can't believe that I'm actually treating Biff Simpson." Mary asks, "How bad do you think his injury is?" John replies, "I saw his MRI report, it looks like he is going to need surgery."

Is this a breach in confidentiality?

The information contained in each patient's medical record must be safeguarded against disclosure or exposure to nonproprietary individuals. The right to know any medical information about another is always predicated on a sound demonstration of need. Frequently, many individuals require access to information contained in a patient's medical record. Their right to access this information is limited to only that information which is deemed necessary for them perform their job in a safe, effective, and responsible manner.

The first questions we must ask are "What information is being disclosed and do the three individuals engaged in the conversation have a need to know this information?"

John's first statement discloses the name of person receiving care, and his second statement reveals private patient medical information. Certainly, as the primary therapist, John would need to know the patient's name and therapy related diagnosis in order to provide care. Sue, the receptionist, may also need this information to schedule appointments and perform other essential clerical tasks. Mary, whose job it is to contract with managed care organizations, most likely has no compelling reason to know either the patient's identity or any of his medical information. Therefore, the disclosure to Mary of the patient's identity and medical information is a breach of patient confidentiality. (APTA's Guide for Professional Conduct, Principle 2.3)

Case Study #2 – Qualifications of Practice

You work in very busy outpatient rehab clinic. One of your coworkers is a physical therapy aide who has worked in rehabilitation for more than 20 years. Frequently, she is called upon to perform treatments that should be done by a PT or PTA. The patients always give her compliments, and frequently request her to treat them. She demonstrates exceptional skills and achieves outstanding outcomes.

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Is the clinic providing ethical care to its patients?

The practice of physical therapy is closely regulated throughout the United States. Each state, through legislation, establishes minimal licensure and practice standards. This is done to protect the general public against fraud and substandard care by under-qualified practitioners. It is each physical therapist's responsibility to adhere to the standards of care and licensure requirements specific to the state in which they practice. The therapist must also ensure that all care provided not directly by them, but under their supervision, also meets these standards.

In this situation, the aide's abilities and outcomes are considered irrelevant. The key sentence in the paragraph is: "perform treatments that should be done by a PT or PTA.". The "should" in this case must not be interpreted as merely a casual suggestion but rather a legal definition regulated by the state's Physical Therapy Practice Act. Any treatment or procedure that **should** be performed by a licensed professional, **must** be performed by a licensed professional. (*APTA's Guide for Professional Conduct, Principle 4.2.B*)

Case Study #3 – Informed Consent

Sam is a PT who has just received orders to begin ambulation with a 75-year-old woman who is s/p right hip ORIF. He goes to her hospital room to evaluate her and begin ambulation. She says she does not want therapy today because she is in too much pain. Sam explains to her that the doctor has left orders for her to begin walking. The patient refuses. Sam leaves and returns the next day to try again. Again, she declines treatment and he leaves.

Under the guidelines of informed consent, were the therapist's actions adequate?

Informed consent is the process by which a fully informed patient can participate in choices about their health care. It originates from the legal and ethical right the patient has to direct what happens to their body and from the ethical duty of the therapist to involve the patient in her health care.

The most important goal of informed consent is that the patient has an opportunity to be an informed participant in their health care decisions. It is generally accepted that complete informed consent includes a discussion of the following elements:

- the nature of the decision/procedure

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- reasonable alternatives to the proposed intervention
- the relevant risks, benefits, and uncertainties related to each alternative
- the consequences on non-treatment
- the goals of treatment
- the prognosis for achieving the goals
- assessment of patient understanding
- the acceptance of the intervention by the patient

In order for the patient's consent to be valid, they must be considered competent to make the decision at hand and their consent must be voluntary. It is easy for coercive situations to arise in medicine. Patients often feel powerless and vulnerable. The therapist should make clear to the patient that they are participating in a decision, not merely signing a form. With this understanding, the informed consent process should be seen as an invitation for them to participate in their health care decisions. The therapist is also generally obligated to provide a recommendation and share their reasoning process with the patient. Comprehension on the part of the patient is equally as important as the information provided. Consequently, the discussion should be carried on in layperson's terms and the patient's understanding should be assessed along the way.

The therapist's actions were not sufficient. None of the required information was offered to the patient. The most important thing the therapist failed to explain to the patient was the consequences of non-treatment. The patient cannot make an informed decision regarding therapy without this information. It could be argued that her decision to refuse therapy may have changed had she known that one of the consequences of this decision could be the development of secondary complications. (i.e. increased risk of morbidity or mortality). (*APTA's Guide for Professional Conduct, Principle 2.4*)

Case Study #4- Medical Necessity

Steve is a physical therapist and owns his own therapy clinic. He recently signed a contract with an HMO to provide physical therapy services. The contract stipulates that Steve will be compensated on a case rate basis. (A fixed amount of money per patient, based on diagnosis) Steve has performed a thorough cost analysis on this contract and has determined that the financial "breakeven" point (revenue equals expenses) on each of these patients is 5 visits. He informs his staff that all patients covered by this insurance must be discharged by their fourth visit.

Is limiting care in this manner ethical?

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Therapists are obligated to propose and provide care that is based on sound medical rationale, patient medical necessity, and treatment efficacy and efficiency. It is unethical to either alter or withhold care based on other extraneous factors without the patient's knowledge and consent.

In this instance, the decision to limit care is not ethical. The quantity of care is not being determined by the medical necessity of the patient. A therapist must be able to justify all of their professional decisions (such as the discharging of a patient from clinical care) based on sound clinical rationale and practices. (APTA's Guide for Professional Conduct, Principles 7.1.C and 8.1.C)

Case Study #5 – Billing and Coding

A Physical Therapy office began offering free massages. Everyday the facility was overflowing with patients. Everyone enjoyed the free massages and visited frequently. The therapists were able to provide this service to all of the patients for “free” because they waived the massage recipient's mandatory co-pay and deductible, and then billed the patient's insurance.

Is it legal to waive a patient's co-pay/deductible and bill only the insurance company?

All co-payments and deductibles must be collected. In most instances, the decision on whether or not to collect this money cannot be made by the provider. The reason for this is quite simple. When a patient purchases a health insurance policy, (either as an individual or through a group plan), they are signing a legal contract that contains specific terms and stipulations. Typically, the cost of the policyholder's monthly premiums is based on the amount of coverage they have purchased and also the amount of co-payment and deductible. A high co-payment / deductible results in a lower monthly premium. Conversely, a low co-payment / deductible will result in a higher monthly premium. By not collecting the co-payment / deductible, the therapist is effectively committing a crime by conspiring with the patient to defraud their insurance company. The question frequently asked by providers is “Why should the insurance company care, I'm the one who is not getting paid?” That is true; however, ultimately, the insurance company ends up paying out more because patients, who have no financial responsibility associated with their healthcare, are more likely to utilize a greater number of services (and subsequently have higher total bills) than those who must contribute directly for their care.

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Billing accuracy is another important area of ethical conduct relating to billing and coding for rehab services. It is crucial that therapists take great care to ensure that the following billing criteria is met: What was performed = What was documented = What was billed. All three components of this equation must always be identical. A clinician must be sure never to perform one service, and then document it or bill it as something different. To do so, represents a fraud and it subjects the therapist to possible prosecution. (*APTA's Guide for Professional Conduct, Principle 9.1.C*)

Case Study #6 – Conflicts of Interest

Debi Jones PT works in an acute care hospital. She is meeting with a vendor whose company is introducing a new brace onto the market. He offers her 3 free braces to “try out” on patients. The vendor states that if Debi continues to order more braces, she will qualify to receive compensation from his company by automatically becoming a member of its National Clinical Assessment Panel.

Does this represent a conflict of interest?

Yes, there exists a conflict of interest in this situation. Debi has two primary obligations to fulfill. The first is to her patient. It is her professional duty to recommend to her patient a brace that, in her judgment, will benefit them the most. The second obligation is to her employer, the hospital. As an employee of the hospital it is her responsibility to manage expenses by thoroughly and objectively seeking effective products that also demonstrate economic efficiency. The conflict of interest occurs when she begins to accept compensation from the vendor in direct or indirect response for her brace orders. Even if she truly believes it is the best brace for her patient, and it is the most cost effective brace the hospital could purchase, by accepting the money she has established at least an apparent conflict of interest. Under this situation she is obligated to disclose to all parties her financial interest in ordering the braces. This disclosure is necessitated because the potential for personal gain would make others rightfully question whether her objectivity was being influenced.

A conflict of interest is a situation in which a person has a private or personal interest that influences the objective exercise of his or her professional duties. As a professional you take on certain responsibilities and obligations to patients, employers, and others. These obligations must take precedence over a therapist's private or personal interests.

In addition to avoiding all real instances of conflict of interest, therapists must also avoid any apparent or potential conflicts as well.

An apparent conflict of interest is one in which a reasonable person would think that the professional's judgment is likely to be compromised, and a

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potential conflict of interest involves a situation that may develop into an actual conflict of interest.

How do you determine if you are in a conflict of interest, whether actual, apparent, or potential? The key is to determine whether the situation you are in interferes or is likely to interfere with your independent judgment. A good test is the 'trust test': Would relevant others (my employer, my patients, professional colleagues, or the general public) trust my judgment if they knew I was in this situation. Trust is at the ethical heart or core of this issue. Conflicts of interest involve the abuse, actual or potential, of the trust people have placed in professionals. This is why conflicts of interest not only injure particular patients and employers, but they also damage the whole profession by reducing the trust people generally have in therapists. (*APTA's Guide for Professional Conduct, Principles 7.2.A 7.2.B*)

Case Study #7 – Relationships with Referral Sources

Larry Jones PT owns a private practice. Business has been poor. He decides to sublease half of his space to an orthopedic surgeon. Larry's current lease is at \$20/sq ft. The doctor wants to pay \$15/sq ft. They come to a compromise of \$17/sq ft. Larry also agrees that if the doctor is his top referral source after 3 months, he'll make him the Medical Director of the facility and pay him a salary of \$500/month.

Is this an ethical arrangement?

No, this agreement is not ethical. The most notable infraction involves offering to designate the physician as Medical Director contingent upon the number of referrals he sends. This is undeniably a direct offer of cash for patients. Another area of concern is the rent. At first glance, the rent amount of \$17/sq ft seems fair because it was a compromise between the two parties. However, closer scrutiny reveals this to be unethical. The fair market value for rent has been established as \$20/ft. (Larry's current rental agreement with his landlord) By discounting the doctor \$3/sq ft on his rent, Larry is giving a referral source something of value.

It is unethical for a physical therapist to offer **anything of value** to physicians or any other referral source **in direct response for the referral of patients or services**. This includes cash, rebates, gifts, discounts, reduced rent, services, equipment, employees, or marketing. Many mistakenly believe that it is a normal acceptable business practice to offer these things to referral sources. It is not. In most states, the practice is not only unethical, but it is also illegal. Exchanges of valued items or services between therapists and referral sources **must never have any relationship to the referral of patients**. Goodwill gifts of

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nominal value are acceptable provided that no correlation can be made between the magnitude or frequency of the gift giving and referral patterns. All business agreements and transactions should always be well documented and most importantly, **reflect fair market value.** (*APTA's Guide for Professional Conduct, Principle 9.1.D*)

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POST-TEST

1. The ethics theory that proposes that right and wrong are determined by the consequences is called
 - A. Utilitarianism
 - B. Social Contract Theory
 - C. Ethical Intuitionism
 - D. Virtue Ethics

2. The duty to tell the truth is also known as
 - A. Autonomy
 - B. Beneficence
 - C. Nonmaleficence
 - D. Veracity

3. Acts that constitute unprofessional conduct by an Oklahoma physical therapy professional are documented and described in:
 - A. 887.4 of the Oklahoma Physical Therapy Practice Act
 - B. Oklahoma Physical Therapy Association Code of Conduct.
 - C. 435:20-9-2 of the Oklahoma Administrative Code
 - D. 435:20-5-8 of the Oklahoma Administrative Code

4. Which of the following statements is FALSE concerning Oklahoma PTA supervision requirements?
 - A. Direct clinical supervision is in effect when a PT signs the Form #5, Verification of Supervision.
 - B. General supervision requires that the supervising therapist is regularly and routinely on-site.
 - C. A physical therapist may supervise up to four physical therapist assistants practicing under direct clinical supervision.
 - D. Home health therapists must review care plans no less frequently than every 120 calendar days.

5. Which of the following is FALSE regarding the Ethics CE requirements for Oklahoma licensed physical therapy professionals?
 - A. Three hours of ethics education is required each two-year licensure period.
 - B. The ethics education may only be completed through a Category A (synchronous) continuing education program.
 - C. The ethics education must include the APTA Guide for Professional Conduct.
 - D. The ethics education must include the APTA Code of Ethics.

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6. Oklahoma licensed physical therapists are permitted to provide care without a physician's referral to which of the following?
 - A. Children who receive PT services pursuant to the Individuals with Disabilities Education Improvement Act of 2004.
 - B. Individuals in hospice care.
 - C. Residents of long term skilled nursing facilities.
 - D. Indigent individuals receiving Pro Bono services

7. The principles of ethical practice set forth in the APTA Code of Ethics are binding on which of the following?
 - A. Only those physical therapists who are current paid members of the APTA
 - B. Only physical therapists engaged in active clinical practice
 - C. Only physical therapists with masters degrees or higher
 - D. All physical therapists

8. Which principle of The APTA's Guide of Professional Conduct prohibits consensual sexual activity between a therapist and a patient?
 - A. Principle 8.2 (B)
 - B. Principle 7.1 (D)
 - C. Principle 4.2 (A)
 - D. Principle 2.1 (C)

9. Which of the following is NOT a provision under HIPAA?
 - A. All patients shall receive copies of all of their medical records within 60 days of completion of their care.
 - B. Providers must give patients a clear written explanation about how their health information will be used.
 - C. An individual's specific authorization is required in order to use their patient information for marketing purposes.
 - D. Providers and other covered entities must train their employees in privacy procedures.

10. The "Trust Test" is used to determine
 - A. Informed Consent
 - B. Medical Necessity
 - C. Conflict of Interest
 - D. Fair Market Value