

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 and apply the principles of the APTA's Code of Ethics
6. understand and apply the principles 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, DPT

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 38 pages (excluding References 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.

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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>)

435:20-1-1.1. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Alternate Supervising Physical Therapist" means the physical therapist who temporarily provides direct or general supervision of a physical therapist assistant or applicant for licensure in the absence of the supervising physical therapist and who will be identified in the medical record as the therapist of record.

"CAPTE" means the Commission on Accreditation of Physical Therapy Education.

"Examination/Evaluation" means a comprehensive visit by the physical therapist, in the presence of the patient, to determine the plan of care, based on the physical therapist's clinical judgments, which are supported by the data gathered during the examination.

"Foreign-educated physical therapist" means a physical therapist who graduated from any physical therapy education program outside the United States.

"General supervision" means the responsible supervision and control of the practice of the licensed physical therapist assistant by the supervising physical therapist. The supervising therapist is regularly and routinely on-site, and every three months will provide a minimum of one (1) co-treatment of face to face, real time interaction with each physical therapist assistant providing services with his/her patients. These co-treatments will be documented in the medical record and on a supervision log, which is subject to inspection. When not on-site, the supervising therapist is on call and readily available physically or through direct telecommunication for consultation.

"Group Setting" means two or more physical therapists providing supervision to physical therapist assistants in the same practice setting or physical facility.

"Immediate Supervision" means the supervising physical therapist or physical therapist assistant is on the premises and in attendance when patient care is being delivered.

"On-site supervision" or "Direct supervision" means the supervising physical therapist is continuously on-site and present in the department or facility where services are provided, is immediately available to the person being supervised and maintains continued involvement in appropriate aspects of each treatment session in which assistive personnel are involved in components of care.

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"Physical Therapist" means a licensed professional health care worker who is a graduate of a program accredited by the Commission on Accreditation of Physical Therapy Education or approved successor organization, and who provides physical therapy services including evaluation, treatment program design/management/ modification, and supervision of delegated portions of a treatment program.

"Physical Therapist Assistant" means a licensed technically educated health care provider who is a graduate of a program accredited by an agency recognized by the Commission on Accreditation of Physical Therapy Education or approved successor organization, and who performs selected physical therapy procedures and related tasks under the direction and supervision of a Physical Therapist.

"Physical Therapist of Record" means the physical therapist who assumes the responsibility for the provision and /or supervision of physical therapy services for a patient, and is held accountable for the coordination, continuation and progression of the plan of care.

"Physical Therapy Aide" means a person on-the-job trained and working under the immediate supervision of a physical therapist or physical therapist assistant who performs designated and supervised routine tasks as outlined in 435:20-7-1.

"Practice Setting" means the type of service delivery such as acute care, outpatient, inpatient rehabilitation, long term care, home health, educational settings or DDSD.

"Re-examination/Re-evaluation/Assessment" means visits by the physical therapist, in the presence of the patient, to assess the patient's current status, gather additional data, and update the plan of care.

"Supervision" means the physical therapist is delegating portions of the patient's care to licensed personnel or applicants for licensure but remains accountable for the coordination, continuation and progression of the care of the patient.

"Supervising Physical Therapist" means the physical therapist of record who provides either direct or general supervision for a physical therapist assistant or applicant for licensure and delegates components of patient care to that person.

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.

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- (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.
- (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.

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- (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 an 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:

- (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

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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. Direction and Supervision of Physical Therapist Assistants

(a) Responsible supervision.

(1) Physical therapists have a duty to provide therapy services that protect the public safety and maximize the availability of their services. The physical therapist assistant is the only individual permitted to assist in selected treatment interventions. A physical therapist assistant shall be supervised by a specific physical therapist or group of physical therapists working in the same practice setting or physical facility. A physical therapist assistant may not be supervised by any other person including those licensed in other professions. The physical therapist of record is accountable and responsible at all times for the direction of the actions of the physical therapist assistant when treating his/her patient.

When determining the extent of assistance the physical therapist assistant can provide, the physical therapist should consider:

- (A) the physical therapist assistant's experience and skill level
- (B) the patient/client criticality and complexity
- (C) the setting in which the care is being delivered
- (D) the predictability of the patient/client outcomes
- (E) the needed frequency of re-examination

(2) A physical therapist shall not delegate to a less qualified person any service that requires the skill, knowledge and judgment of a physical therapist. For each date of service, a physical therapist shall provide all therapeutic interventions that require the expertise of a physical therapist and shall determine when assistive

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personnel may be used to provide delivery of services in a safe, effective, and efficient manner for each patient.

(A) A physical therapist assistant shall work under a physical therapist's direct or general supervision. A physical therapist assistant may document care provided without the co-signature of the supervising physical therapist. The physical therapist assistant will respond to acute changes in the patient's physiological state and report these findings promptly to the physical therapist. Contact, or attempts to contact the physical therapist of record, will be documented in the medical record.

(B) A physical therapist and a physical therapist assistant may use physical therapy aides for designated and immediately supervised routine tasks. The physical therapist shall not delegate the same type and level of duties to the physical therapy aide as are delegated to the physical therapist assistant. A physical therapy aide shall work under immediate supervision of the physical therapist or physical therapist assistant who is continuously on-site and present in the facility.

(b) Patient Care Management. Upon accepting a patient for provision of services, the physical therapist becomes the Physical Therapist of Record for that patient and is solely responsible for managing all aspects of the physical therapy plan of care for that patient. The Physical Therapist of Record shall:

(1) Perform the initial examination and evaluation

(2) Establish a plan of care and remain responsible to provide and/or supervise the appropriate interventions outlined in the plan of care.

(3) Perform the re-examination/re-evaluation of the patient in light of their goals and revision of the plan of care when indicated. This will be performed no less frequently than:

(A) every 30 days in acute care, outpatient, inpatient rehabilitation and long term care settings with documented case consultation no less frequently than every 15 days;

(B) every 60 days in home health settings with documented case consultation no less frequently than every 30 days;

(C) every 90 days in consultative DDSD with documented case consultation no less frequently than every 45 days;

(D) every 10th visit for DDSD for patients under 21 years of age with documented case consultation no less frequently than every 5th visit;

(E) every 60 days in educational settings with documented case consultation no less frequently than every 30 days;

(4) Establish the discharge plan and provide or review the documentation of the discharge summary prepared by the physical therapist assistant.

(5) A physical therapist's responsibility for patient care management shall include oversight of all documentation for services rendered to each patient, including awareness of fees charged or reimbursement methodology used. A physical therapist shall also be aware of what constitutes unreasonable or fraudulent fees.

(c) Designation of a new Physical Therapist of Record. In the event that the Physical Therapist of Record can no longer assume these responsibilities, care must be turned over to another physical therapist who will become the new

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Physical Therapist of Record. The Therapist of Record must make sure that the new Physical Therapist of Record is authorized and qualified to receive the patient, must obtain acceptance from the receiving physical therapist, document the hand-over of the patient and maintain the care and responsibility of the patient until the new Physical Therapist of Record is acknowledged in the documentation.

(d) Designation and responsibilities of Supervising Physical Therapist and Alternate Supervising Physical Therapist. Both the physical therapist and physical therapist assistant are responsible for completion of the Form #5, Verification of Supervision.

(1) A Form #5, Verification of Supervision must be completed annually for each clinical practice setting in which the physical therapist assistant works, identifying the supervising physical therapist for the physical therapist assistant. The physical therapist assistant will be responsible to inquire of their supervising physical therapist(s) or the Board, the number of persons being supervised by that physical therapist. If responsible supervision is not practiced, both the supervising physical therapist and the physical therapist assistant are in violation of this rule. Any revised or new Form #5 for a physical therapist assistant at a clinical practice setting will supersede the existing Form #5 for that setting. A physical therapist assistant will not practice in any clinical setting without the necessary Form #5. It is the responsibility of both physical therapists and physical therapist assistants to notify the Board of any changes to a Form #5 that they have signed.

(2) A physical therapist will not supervise and utilize more than four (4) licensed personnel or applicants for licensure. Only three (3) may be physical therapist assistants or applicants for physical therapist assistant licensure. Any of the four (4) may be applicants for physical therapist licensure. This total is inclusive of all geographic locations or employing agencies.

(3) For each practice setting in which he or she works, the physical therapist assistant and the supervising physical therapists must indicate on the Form #5, Verification of Supervision which of the method of supervision described in (A) or (B) below will be employed in that practice setting.

(A) A physical therapist will provide direct or general supervision of a physical therapist assistant and will be listed on the Form #5 as the supervising physical therapist. In the event that he or she is unable to provide supervision, a supervising physical therapist may:

(i) temporarily delegate the supervision of up to three licensed physical therapist assistants to an alternate supervising physical therapist who agrees to provide consultation to the physical therapist assistant(s) for existing plans of care for a period of time not to exceed thirty (30) days. In this event, a new Form #5 is not required, but the alternate supervising physical therapist must be identified as the Therapist of Record in the documentation.

(ii) designate a new Therapist of Record, as in 435:20-7-1-(c) above, to assume full responsibility of the plan of care who may, if they so chose, delegate to a physical therapist assistant under their supervision as listed on their Form #5.

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(B) A group of physical therapists, working in the same practice setting may provide supervision to a physical therapist assistant providing the following conditions are met:

- (i) all supervising physical therapists are listed on a Form #5 for the physical therapist assistant.
- (ii) the ratio of physical therapists to physical therapists assistants in that practice setting does not exceed the ratio of one (1) physical therapist to three (3) physical therapist assistants or applicants for licensure at any given time.
- (iii) The group director, who must be a licensed physical therapist or physical therapist assistant, is identified and assumes responsibility for accurate information on the Form #5 and the appropriate ratio of physical therapist to physical therapist assistants. The Board may assign disciplinary action to the clinical director or all members of the group for violation of the supervision rules.
- (e) Supervision of additional physical therapist assistants. In unique cases, a physical therapist may petition the Chair of the Physical Therapy Committee to receive permission to supervise additional physical therapist assistants or applicants for licensure, but this decision to supervise additional assistive personnel must be reviewed and approved by the committee at the next scheduled meeting..

(f) **Limits of practice for the physical therapist assistant.** The physical therapist assistant may not:

- (1) Specify, other than to the Physical Therapist of Record, perform or interpret definitive (decisive, conclusive, final) evaluative and assessment procedures. Definitive evaluation procedures may not be recommended to anyone other than the patient's physical therapist, unless previously approved by the physical therapist.
- (2) Alter overall treatment, goals and/or plan.
- (3) Recommend adaptive equipment, 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.

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- (3) No continuing education hours may be carried over from one compliance period to another.
- (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.

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(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 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.

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- (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. 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.

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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 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.

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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 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

The Code of Ethics for the Physical Therapist (Code of Ethics) delineates the ethical obligations of all physical therapists as determined by the House of Delegates of the American Physical Therapy Association (APTA). The purposes of this Code of Ethics are to:

1. Define the ethical principles that form the foundation of physical therapist practice in patient/client management, consultation, education, research, and administration.
2. Provide standards of behavior and performance that form the basis of professional accountability to the public.
3. Provide guidance for physical therapists facing ethical challenges, regardless of their professional roles and responsibilities.
4. Educate physical therapists, students, other health care professionals, regulators, and the public regarding the core values, ethical principles, and standards that guide the professional conduct of the physical therapist.
5. Establish the standards by which the American Physical Therapy Association can determine if a physical therapist has engaged in unethical conduct.

No code of ethics is exhaustive nor can it address every situation. Physical therapists are encouraged to seek additional advice or consultation in instances where the guidance of the Code of Ethics may not be definitive.

This Code of Ethics is built upon the five roles of the physical therapist (management of patients/clients, consultation, education, research, and administration), the core values of the profession, and the multiple realms of ethical action (individual, organizational, and societal). Physical therapist practice is guided by a set of seven core values: accountability, altruism, compassion/caring, excellence, integrity, professional duty, and social responsibility. Throughout the document the primary core values that support specific principles are indicated in parentheses. Unless a specific role is indicated in the principle, the duties and obligations being delineated pertain to the five roles of the physical therapist. Fundamental to the Code of Ethics is the special obligation of physical therapists to empower, educate, and enable those with impairments, activity limitations, participation restrictions, and disabilities to facilitate greater independence, health, wellness, and enhanced quality of life.

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

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1A. Physical therapists shall act in a respectful manner toward each person regardless of age, gender, race, nationality, religion, ethnicity, social or economic status, sexual orientation, health condition, or disability.

1B. Physical therapists shall recognize their personal biases and shall not discriminate against others in physical therapist practice, consultation, education, research, and administration.

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

2A. Physical therapists shall adhere to the core values of the profession and shall act in the best interests of patients/clients over the interests of the physical therapist.

2B. Physical therapists shall provide physical therapy services with compassionate and caring behaviors that incorporate the individual and cultural differences of patients/clients.

2C. Physical therapists shall provide the information necessary to allow patients or their surrogates to make informed decisions about physical therapy care or participation in clinical research.

2D. Physical therapists shall collaborate with patients/clients to empower them in decisions about their health care.

2E. Physical therapists shall protect confidential patient/client information and may disclose confidential information to appropriate authorities only when allowed or as required by law.

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

3A. Physical therapists shall demonstrate independent and objective professional judgment in the patient's/client's best interest in all practice settings.

3B. Physical therapists shall demonstrate professional judgment informed by professional standards, evidence (including current literature and established best practice), practitioner experience, and patient/client values.

3C. Physical therapists shall make judgments within their scope of practice and level of expertise and shall communicate with, collaborate with, or refer to peers or other health care professionals when necessary.

3D. Physical therapists shall not engage in conflicts of interest that interfere with professional judgment.

3E. Physical therapists shall provide appropriate direction of and communication with physical therapist assistants and support personnel.

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

4A. Physical therapists shall provide truthful, accurate, and relevant information and shall not make misleading representations.

4B. Physical therapists shall not exploit persons over whom they have supervisory, evaluative or other authority (eg, patients/clients, students, supervisees, research participants, or employees).

4C. Physical therapists shall discourage misconduct by healthcare professionals and report illegal or unethical acts to the relevant authority, when appropriate.

4D. Physical therapists shall report suspected cases of abuse involving children or vulnerable adults to the appropriate authority, subject to law.

4E. Physical therapists shall not engage in any sexual relationship with any of their patients/clients, supervisees, or students.

4F. Physical therapists shall not harass anyone verbally, physically, emotionally, or sexually.

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

5A. Physical therapists shall comply with applicable local, state, and federal laws and regulations.

5B. Physical therapists shall have primary responsibility for supervision of physical therapist assistants and support personnel.

5C. Physical therapists involved in research shall abide by accepted standards governing protection of research participants.

5D. Physical therapists shall encourage colleagues with physical, psychological, or substance related impairments that may adversely impact their professional responsibilities to seek assistance or counsel.

5E. Physical therapists who have knowledge that a colleague is unable to perform their professional responsibilities with reasonable skill and safety shall report this information to the appropriate authority.

5F. Physical therapists shall provide notice and information about alternatives for obtaining care in the event the physical therapist terminates the provider relationship while the patient/client continues to need physical therapy services.

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

6A. Physical therapists shall achieve and maintain professional competence.

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6B. Physical therapists shall take responsibility for their professional development based on critical self-assessment and reflection on changes in physical therapist practice, education, healthcare delivery, and technology.

6C. Physical therapists shall evaluate the strength of evidence and applicability of content presented during professional development activities before integrating the content or techniques into practice.

6D. Physical therapists shall cultivate practice environments that support professional development, life-long learning, and excellence.

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

7A. Physical therapists shall promote practice environments that support autonomous and accountable professional judgments.

7B. Physical therapists shall seek remuneration as is deserved and reasonable for physical therapist services.

7C. Physical therapists shall not accept gifts or other considerations that influence or give an appearance of influencing their professional judgment.

7D. Physical therapists shall fully disclose any financial interest they have in products or services that they recommend to patients/clients.

7E. Physical therapists shall be aware of charges and shall ensure that documentation and coding for physical therapy services accurately reflect the nature and extent of the services provided.

7F. Physical therapists shall refrain from employment arrangements, or other arrangements, that prevent physical therapists from fulfilling professional obligations to patients/clients.

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

8A. Physical therapists shall provide *pro bono* physical therapy services or support organizations that meet the health needs of people who are economically disadvantaged, uninsured, and underinsured.

8B. Physical therapists shall advocate to reduce health disparities and health care inequities, improve access to health care services, and address the health, wellness, and preventive health care needs of people.

8C. Physical therapists shall be responsible stewards of health care resources and shall avoid over-utilization or under-utilization of physical therapy services.

8D. Physical therapists shall educate members of the public about the benefits of physical therapy and the unique role of the physical therapist.

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Proviso: The Code of Ethics as substituted will take effect July 1, 2010, to allow for education of APTA members and non-members.

The Standards of Ethical Conduct for the Physical Therapist Assistant

Preamble

The Standards of Ethical Conduct for the Physical Therapist Assistant (Standards of Ethical Conduct) delineate the ethical obligations of all physical therapist assistants as determined by the House of Delegates of the American Physical Therapy Association (APTA). The Standards of Ethical Conduct provide a foundation for conduct to which all physical therapist assistants shall adhere. Fundamental to the Standards of Ethical Conduct is the special obligation of physical therapist assistants to enable patients/clients to achieve greater independence, health and wellness, and enhanced quality of life.

No document that delineates ethical standards can address every situation. Physical therapist assistants are encouraged to seek additional advice or consultation in

Standard #1: Physical therapist assistants shall respect the inherent dignity, and rights, of all individuals.

1A. Physical therapist assistants shall act in a respectful manner toward each person regardless of age, gender, race, nationality, religion, ethnicity, social or economic status, sexual orientation, health condition, or disability.

1B. Physical therapist assistants shall recognize their personal biases and shall not discriminate against others in the provision of physical therapy services.

Standard #2: Physical therapist assistants shall be trustworthy and compassionate in addressing the rights and needs of patients/clients.

2A. Physical therapist assistants shall act in the best interests of patients/clients over the interests of the physical therapist assistant.

2B. Physical therapist assistants shall provide physical therapy interventions with compassionate and caring behaviors that incorporate the individual and cultural differences of patients/clients.

2C. Physical therapist assistants shall provide patients/clients with information regarding the interventions they provide.

2D. Physical therapist assistants shall protect confidential patient/client information and, in collaboration with the physical therapist, may disclose confidential information to appropriate authorities only when allowed or as required by law.

Standard #3: Physical therapist assistants shall make sound decisions in collaboration with the physical therapist and within the boundaries established by laws and regulations.

3A. Physical therapist assistants shall make objective decisions in the patient's/client's best interest in all practice settings.

3B. Physical therapist assistants shall be guided by information about best practice regarding physical therapy interventions.

3C. Physical therapist assistants shall make decisions based upon their level of competence and consistent with patient/client values.

3D. Physical therapist assistants shall not engage in conflicts of interest that interfere with making sound decisions.

3E. Physical therapist assistants shall provide physical therapy services under the direction and supervision of a physical therapist and shall communicate with the physical therapist when patient/client status requires modifications to the established plan of care.

Standard #4: Physical therapist assistants shall demonstrate integrity in their relationships with patients/clients, families, colleagues, students, other healthcare providers, employers, payers, and the public.

4A. Physical therapist assistants shall provide truthful, accurate, and relevant information and shall not make misleading representations.

4B. Physical therapist assistants shall not exploit persons over whom they have supervisory, evaluative or other authority (eg, patients/clients, students, supervisees, research participants, or employees).

4C. Physical therapist assistants shall discourage misconduct by healthcare professionals and report illegal or unethical acts to the relevant authority, when appropriate.

4D. Physical therapist assistants shall report suspected cases of abuse involving children or vulnerable adults to the supervising physical therapist and the appropriate authority, subject to law.

4E. Physical therapist assistants shall not engage in any sexual relationship with any of their patients/clients, supervisees, or students.

4F. Physical therapist assistants shall not harass anyone verbally, physically, emotionally, or sexually.

Standard #5: Physical therapist assistants shall fulfill their legal and ethical obligations.

5A. Physical therapist assistants shall comply with applicable local, state, and federal laws and regulations.

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5B. Physical therapist assistants shall support the supervisory role of the physical therapist to ensure quality care and promote patient/client safety.

5C. Physical therapist assistants involved in research shall abide by accepted standards governing protection of research participants.

5D. Physical therapist assistants shall encourage colleagues with physical, psychological, or substance related impairments that may adversely impact their professional responsibilities to seek assistance or counsel.

5E. Physical therapist assistants who have knowledge that a colleague is unable to perform their professional responsibilities with reasonable skill and safety shall report this information to the appropriate authority.

Standard #6: Physical therapist assistants shall enhance their competence through the lifelong acquisition and refinement of knowledge, skills, and abilities.

6A. Physical therapist assistants shall achieve and maintain clinical competence.

6B. Physical therapist assistants shall engage in life-long learning consistent with changes in their roles and responsibilities and advances in the practice of physical therapy.

6C. Physical therapist assistants shall support practice environments that support career development and life-long learning.

Standard #7: Physical therapist assistants shall support organizational behaviors and business practices that benefit patients/clients and society.

7A. Physical therapist assistants shall promote work environments that support ethical and accountable decision-making.

7B. Physical therapist assistants shall not accept gifts or other considerations that influence or give an appearance of influencing their decisions.

7C. Physical therapist assistants shall fully disclose any financial interest they have in products or services that they recommend to patients/clients.

7D. Physical therapist assistants shall ensure that documentation for their interventions accurately reflects the nature and extent of the services provided.

7E. Physical therapist assistants shall refrain from employment arrangements, or other arrangements, that prevent physical therapist assistants from fulfilling ethical obligations to patients/clients.

Standard #8: Physical therapist assistants shall participate in efforts to meet the health needs of people locally, nationally, or globally.

8A. Physical therapist assistants shall support organizations that meet the health needs of people who are economically disadvantaged, uninsured, and underinsured.

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8B. Physical therapist assistants shall advocate for people with impairments, activity limitations, participation restrictions, and disabilities in order to promote their participation in community and society.

8C. Physical therapist assistants shall be responsible stewards of healthcare resources by collaborating with physical therapists in order to avoid over-utilization or under-utilization of physical therapy services.

8D. Physical therapist assistants shall educate members of the public about the benefits of physical therapy.

APTA 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 change 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. This Guide is subject to monitoring and timely revision by the Ethics and Judicial Committee of the Association.

Interpreting Ethical Principles

The interpretations expressed in this Guide reflect the opinions, decisions, and advice of the Ethics and Judicial Committee. These interpretations are intended to assist a physical therapist in applying general ethical principles to specific situations. They should not be considered inclusive of all situations that could evolve.

Reference to Code of Ethics

In light of the recent amendments to the *Code of Ethics*, and in lieu of setting forth in the Guide interpretations of the *Code of Ethics*, the Ethics and Judicial Committee does hereby refer Physical Therapists to the *Code of Ethics*. As noted in the Purpose of the Guide set forth above, this Guide is subject to change and the Ethics and Judicial Committee will monitor and timely revise this Guide when necessary and as needed.

Issued by Ethics and Judicial Committee , American Physical Therapy Association ; October 1981
Last Amended July 2009 (Effective July 1, 2010)

APTA Guide for Conduct of the Physical Therapist Assistant

This *Guide for Conduct of the Physical Therapist Assistant* (Guide) is intended to serve physical therapist assistants in interpreting the *Standards of Ethical Conduct for the Physical Therapist Assistant* (Standards) of the American Physical Therapy Association (APTA). The Guide provides guidelines by which physical therapist assistants may determine the propriety of their conduct. It is also intended to guide the development of physical therapist assistant students. The Standards and Guide apply to all physical therapist assistants. These guidelines are subject to change 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. This Guide is subject to monitoring and timely revision by the Ethics and Judicial Committee of the Association.

Interpreting Standards

The interpretations expressed in this Guide reflect the opinions, decisions, and advice of the Ethics and Judicial Committee. These interpretations are intended to guide a physical therapist assistant in applying general ethical principles to specific situations. They should not be considered inclusive of all situations that a physical therapist assistant may encounter.

Reference to Standards of Ethical Conduct for the Physical Therapist Assistant

In light of the recent amendments to the *Standards of Ethical Conduct for the Physical Therapist Assistant*, and in lieu of setting forth in the Guide interpretations of the *Standards of Ethical Conduct for the Physical Therapist Assistant*, the Ethics and Judicial Committee does hereby refer Physical Therapist Assistants to the *Standards of Ethical Conduct for the Physical Therapist Assistant*.

As noted in the Purpose of the Guide set forth above, this Guide is subject to change and the Ethics and Judicial Committee will monitor and timely revise this Guide when necessary and as needed.

Issued by Ethics and Judicial Committee, American Physical Therapy Association ; October 1981
Last Amended July 2009 (Effective July 1, 2010)

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.

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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 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

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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 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

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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 & 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

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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.

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.

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

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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.

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
- 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

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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).

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?

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.

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

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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.

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.

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?

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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 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.

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

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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 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**.

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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 licensed Physical Therapist Assistants?
 - A. A physical therapist assistant must be supervised by a specific physical therapist or group of physical therapists working in the same practice setting or physical facility.
 - B. A physical therapist assistant may document care provided without the cosignature of the supervising physical therapist.
 - C. A Verification of Supervision (Form #5) must be completed biannually for each clinical practice setting in which the PTA works
 - D. Physical therapist assistants may not recommend adaptive equipment or assistive devices to anyone other than a physical therapist.
5. Which of the following is FALSE regarding the 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. No continuing education hours may be carried over from one compliance period to another.
 - D. Each licensee is responsible for maintaining evidence/proof/record of participation in a continuing education experience for a minimum of four years

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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. Which of the following is not a component of the APTA Code of Ethics?
 - A. The five roles of the physical therapist
 - B. The seven core values of the physical therapy profession
 - C. The multiple realms of ethical action
 - D. The four basic principles of trust and honesty

8. Which principle of The APTA's Code of Ethics prohibits consensual sexual activity between a therapist and a patient?
 - A. Principle 8C
 - B. Principle 7D
 - C. Principle 5E
 - D. Principle 4E

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