

ETHICS AND JURISPRUDENCE – GEORGIA PT

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GOALS AND OBJECTIVES

Course Description

“Ethics and Jurisprudence – Georgia Physical Therapy” is an online home study continuing education program for Georgia licensed physical therapy professionals. Information presented includes sections on the theoretical basis for ethical decision-making, Georgia Rules 490-1 through 490-11 (Rules of the Georgia State Board of Physical Therapy), Georgia Laws 43-33 (GA Physical Therapy Practice Act), Georgia General Provisions 43-1-19 through 43-1-27, HIPAA, and hypothetical case studies.

Course Rationale

This course was developed to promote and facilitate ethical behavior by Georgia licensed physical therapists and physical therapist assistants.

Course Goals & 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 GA Physical Therapy Practice Act (Georgia Laws 43-33), Rules of the GA State Board of Physical Therapy (GA Rules 490-1 through 490-11), GA General Provisions 43-1-19 through 43-1-27, and GA Patient Record Laws (31-33).
4. evaluate their current physical therapy practices to ensure compliance with all relevant Georgia laws and rules
5. understand patients’ rights relating to privacy of information as defined by the Federal HIPAA statutes
6. analyze and interpret clinical situations to determine appropriate professional legal and ethical behavior.

Course Instructor

Michael Niss DPT

Method of Instruction

Text based online home study course.

Target Audience

Georgia licensed physical therapists and physical therapist assistants

Course Educational Level

This course is applicable for introductory learners.

Course Prerequisites

None

Criteria for Issuance of Continuing Education Credits

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

Determination of Contact Hours

“Ethics and Jurisprudence” will require at least 4 hours to complete. This estimate is based on the accepted standard for home study courses of approximately 10-12 pages of written text (12 pt font) per hour. The complete text of this course is 49 pages (excluding Bibliography and Post Test)

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Ethics

Overview

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

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 Versus 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”.

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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 are 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

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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 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

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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 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

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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 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 established 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

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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.

Georgia Physical Therapy Practice Act Official Code 43-33

The following is an edited version of the Georgia Physical Therapy Practice Act , to view Code 43-33 in its entirety, go to: http://sos.georgia.gov/acrobat/PLB/laws/15_Physical_Therapists_43-33.pdf

TITLE 43. PROFESSIONS AND BUSINESSES CHAPTER 33. PHYSICAL THERAPISTS

§ 43-33-1. Short title

This chapter shall be known and may be cited as the "Georgia Physical Therapy Act."

§ 43-33-2. Declaration of purpose

This chapter is enacted for the purpose of safeguarding the public health, safety, and welfare by providing for state administrative control, supervision, and regulation of the practice of physical therapy. The practice of physical therapy is declared to be affected with the public interest; and this chapter shall be liberally construed so as to accomplish the purpose stated in this Code section.

§ 43-33-3. Definitions

As used in this chapter, the term:

- (1) "Board" means the State Board of Physical Therapy.
- (2) "License" means a valid and current certificate of registration issued by the board, which shall give the person to whom it is issued authority to engage in the practice prescribed thereon.
- (3) "Licensee" means any person holding a license under this chapter.
- (4) "Person" means a human being only, not a legal entity.
- (5) "Physical therapist" means a person licensed to practice physical therapy as defined in this chapter and whose license is in good standing. A physical therapist shall be designated by the initials "P.T."
- (6) "Physical therapist assistant" or "physical therapy assistant" means a person who is licensed by the board to assist a physical therapist, whose activities are supervised and directed by a physical therapist, and whose license is in good standing. A physical therapist assistant shall be designated by the initials "P.T.A."
- (7) "Physical therapy" means the examination, treatment, and instruction of human beings to detect, assess, prevent, correct, alleviate, and limit physical disability, bodily malfunction and pain from injury, disease, and any other bodily and mental conditions and includes the administration, interpretation,

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documentation, and evaluation of tests and measurements of bodily functions and structures; the planning, administration, evaluation, and modification of treatment and instruction, including the use of physical measures, activities, and devices, for preventative and therapeutic purposes; and the provision of consultative, educational, and other advisory services for the purpose of preventing or reducing the incidence and severity of physical disability, bodily malfunction, and pain.

(8) "Physical therapy aide" means a person who only performs designated and supervised physical therapy tasks. The physical therapy aide must receive direct supervision and must be directed on the premises at all times by a licensee. Physical therapy aides are not licensed under this chapter.

(9) "Trainee" means an individual who is approved for a traineeship.

(10) "Traineeship" means a period of activity during which a trainee works under the direct supervision of a licensed physical therapist who has practiced for not less than one year prior to assuming the supervisory role.

(11) "Training permit" means a valid and current certificate of registration issued by the board, which gives the person to whom it is issued authority to engage in practice through a traineeship prescribed thereon.

§ 43-33-4. Creation of board

There is created a State Board of Physical Therapy.

§ 43-33-5. Appointment of board members; terms; vacancies; removal

The board shall consist of eight members, as provided in Code Section 43-33-6, each of whom shall be appointed by the Governor and confirmed by the Senate for a term of three years and until a successor is appointed and qualified.

Vacancies on the board shall be filled by the Governor's appointment of a successor to serve out the unexpired term. The Governor, after notice and opportunity for hearing, may remove any member of the board for neglect of duty, incompetence, revocation or suspension of license of those licensee members, or other dishonorable conduct. No person shall serve consecutively more than two full terms as a member of the board.

§ 43-33-6. Qualifications of board members

To be eligible for appointment to the board, a person must be a resident of this state. Six members of the board shall be licensed as physical therapists under this chapter who have practiced or taught physical therapy for at least three years. At least one member shall be licensed and practicing as a physical therapist assistant for at least three years. The eighth member shall be appointed from the public at large and shall have no business connection whatsoever with the practice or profession of physical therapy.

§ 43-33-7. Conduct of business by telephone

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With the exception of hearings in contested cases, the board may conduct business in conference by telephone, provided that members of the board shall not receive compensation for business conducted in conference by telephone.

§ 43-33-8. Reimbursement of board members

Each member of the board shall be reimbursed as provided for in subsection (f) of Code Section 43-1-2.

§ 43-33-9. Division director as secretary of board; subpoena power; service of process and documents; official records as prima- facie evidence

The division director shall be secretary of the board and shall perform such other administrative duties as may be prescribed by the board. In a contested case, the division director on behalf of the board shall have the power to subpoena, throughout the state, witnesses, designated documents, papers, books, accounts, letters, photographs, objects, or other tangible things. All legal process and all documents required by law to be served upon or filed with the board shall be served upon or filed with the division director at his or her office in Atlanta. All official records of the board or affidavits by the division director certifying the content of such records shall be prima- facie evidence of all matters required to be kept therein.

§ 43-33-10. General powers and duties of board

In carrying out the provisions of this chapter, the board shall, in addition to the other powers conferred upon it under this chapter, have the power to:

- (1) Prepare or approve all examinations or applicants for licenses;
- (2) Determine the qualifications of and authorize the issuance of licenses to qualified physical therapists and physical therapist assistants;
- (3) Determine the qualifications for and approve educational programs that prepare physical therapists and physical therapist assistants for the purpose of determining qualifications of applicants for licensure;
- (4) Initiate investigations of alleged or suspected violations of the provisions of this chapter or other laws of this state pertaining to physical therapy and any rules and regulations adopted by the board. For this purpose, any board member or authorized agent of the board shall have the power and right to enter and make reasonable inspection of any place where physical therapy is practiced;
- (5) Conduct all hearings in contested cases according to Chapter 13 of Title 50, known as the "Georgia Administrative Procedure Act";
- (6) Discipline any person licensed under this chapter, or refuse to grant, renew, or restore a license to any person upon any ground specified in this chapter;
- (7) Adopt a seal, the imprint of which together with the authorized signature of either the division director or other member authorized by the board shall be effective to evidence its official acts;
- (8) Establish licensing fees and maintain in the office of the division director a register of all persons holding a license and a record of all inspections made;
- (9) Adopt and publish a code of ethics;

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- (10) Issue training permits; and
- (11) Adopt such rules and regulations as shall be reasonably necessary for the enforcement and implementation of the provisions and purposes of this chapter and other laws of this state insofar as they relate to physical therapy.

§ 43-33-11. License required for physical therapists or physical therapist assistants; use of titles; limitation on scope of Code section

A physical therapist shall display either the title "physical therapist" or the abbreviation "P.T." on a name tag or other similar form of identification during times when such person is providing direct patient care. A physical therapist assistant shall display either the title "physical therapist assistant" or the abbreviation "P.T.A." on a name tag or other similar form of identification during times when such person is providing direct patient care. A physical therapy aide shall be required to display the title "physical therapy aide" on a name tag or other similar form of identification during times when such person is assisting a licensee. No person shall practice as a physical therapist or as a physical therapist assistant nor hold himself or herself out as being able to practice as a physical therapist or as a physical therapist assistant or as providing physical therapy or use the initials P.T. or P.T.A. in conjunction therewith or use any word or title to induce the belief that he or she is engaged in the practice of physical therapy unless he or she holds a license and otherwise complies with the provisions of this chapter and the rules and regulations adopted by the board. Nothing in this Code section shall be construed as preventing or restricting the practice, services, or activities of:

- (1) Any person licensed under any other law of this state who is engaged in the professional or trade practices properly conducted under the authority of such other licensing laws;
- (2) Any person pursuing a course of study leading to a degree or certificate as a physical therapist or as a physical therapist assistant in an entry level educational program approved by the board, if such person is designated by a title indicating student status, is fulfilling work experiences required for the attainment of the degree or certificate, and is under the supervision of a licensed physical therapist;
- (3) Any person enrolled in a course of study designed to develop advanced physical therapy skills when the physical therapy activities are required as part of an educational program sponsored by an educational institution approved by the board and are conducted under the supervision of a physical therapist licensed under this chapter. If such person provides physical therapy services outside the scope of the educational program, he or she shall then be required to be licensed in accordance with this chapter;
- (4) A physical therapist licensed in another state or country or employed by the United States government conducting a teaching or clinical demonstration in connection with an academic or continuing education program;
- (5) Any person employed as a physical therapist or as a physical therapist assistant by the United States government if such person provides physical

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therapy services solely under the direction or control of the employing organization. If such person shall engage in the practice of physical therapy or as a physical therapist assistant outside the course and scope of such employment, he or she shall then be required to be licensed in accordance with this chapter; or (6) A person currently licensed in another state who is present in this state for treatment of a temporary sojourner only, said treatment in this state not to exceed a total of 60 days during any 12 month period.

§ 43-33-12. Requirements for license to practice physical therapy

A license to practice physical therapy shall be issued to any person who:

- (1) Is a graduate of an educational program that prepares physical therapists and which is accredited by a recognized accrediting agency and approved by the board or, in the case of an applicant who has graduated from an educational program which prepares physical therapists conducted in a foreign country, has submitted, in a manner prescribed by the board, credentials approved by the board and who has further demonstrated the ability to speak, write, and understand the English language and has satisfactorily completed a three- month board approved traineeship under the supervision of a physical therapist licensed under this chapter;
- (2) Has satisfactorily passed an examination prepared or approved by the board; and
- (3) Is not disqualified to receive a license under the provisions of Code Section 43-33-18 or subsection (a) of Code Section 43-1-19.

§ 43-33-13. Requirements for license to practice as physical therapist assistant

A license to practice as a physical therapist assistant shall be issued to any person who:

- (1) Is a graduate of an educational program that prepares physical therapist assistants and which is accredited by a recognized accrediting agency and approved by the board or, in the case of an applicant who has graduated from an educational program which prepares physical therapist assistants conducted in a foreign country, has submitted, in a manner prescribed by the board, credentials approved by the board and who has further demonstrated the ability to speak, write, and understand the English language and has satisfactorily completed a three- month board approved traineeship under the supervision of a physical therapist licensed under this chapter;
- (2) Has satisfactorily passed an examination prepared or approved by the board; and
- (3) Is not disqualified to receive a license under the provisions of Code Section 43-33-18 or subsection (a) of Code Section 43-1-19.

§ 43-33-13.1. Physical therapy aide

A physical therapy aide is one, other than a physical therapist or physical therapist assistant, who is employed to assist a physical therapist or a physical

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therapist assistant by performing only designated physical therapy tasks under direct supervision of a licensee as approved by the board by rule or regulation.

§ 43-33-14. Determining competence of applicants

The board shall determine the competence of applicants to practice as physical therapists or as physical therapist assistants by any method or procedure which the board deems necessary to test the applicant's qualifications.

§ 43-33-15. Reciprocity

The board may grant to a person licensed in another state or territory of the United States full privileges to engage in equivalent practice authorized by this chapter without taking an examination, provided:

- (1) That such person is properly licensed under the laws of another state or territory or the United States; and
- (2) That the requirements for licensing in such other state or territory of the United States are substantially equal to the requirements for a similar license in this state.

§ 43-33-16. Expiration, renewal, and restoration of licenses; canceled licenses; continuing education

All licenses shall expire biennially unless renewed. All applications for renewal of a license shall be filed with the division director prior to the expiration date, accompanied by the biennial renewal fee prescribed by the board. A license which has expired for failure of the holder to renew may only be restored after application and payment of the prescribed restoration fee within the time period established by the division director and provided the applicant meets such requirements as the board may establish by rule. Any license which has not been restored within such period following its expiration may not be renewed, restored, or reissued thereafter. The holder of such a canceled license may apply for and obtain a valid license only upon compliance with all relevant requirements for issuance of a new license. The board shall require no less than four hours of continuing education in order to renew any license issued pursuant to this chapter.

§ 43-33-17. Training permits

(a) The board may issue a training permit to an applicant who is a graduate of an approved physical therapy program who is approved to take the physical therapy licensing examination or who has taken the examination but not yet received the examination results.

(b) The board may issue a training permit to a foreign trained applicant who is a graduate from a physical therapy program outside the United States and its territories and who is approved to take the physical therapy licensing examination.

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(c) The board may issue a training permit to a reinstatement applicant whose license to practice as a physical therapist or license to practice as a physical therapist assistant has been expired for more than two years.

(d) The training permit shall allow the holder thereof to work only under the direct supervision of a physical therapist who has been approved by the board and has practiced for not less than one year prior to assuming the supervisory role.

(e) Training permits are governed by rules and regulations authorized under this chapter and approved by the board.

§ 43-33-18. Refusal to grant or restore licenses; discipline of licensees; suspension, revocation, or restriction of licenses; immunity for violation reporters

(a) The board shall have authority to refuse to grant or restore a license to an applicant or to discipline a physical therapist or physical therapist assistant licensed under this chapter or any antecedent law upon a finding by the board that the licensee or applicant has:

(1) (A) Implemented or continued a program of physical therapy treatment without consultation with an appropriate licensed practitioner of the healing arts; except that a physical therapist may implement a program of physical therapy treatment without consultation with an appropriately licensed practitioner of the healing arts when:

(i) Services are provided for the purpose of fitness, wellness, or prevention that is not related to the treatment of an injury or ailment; or

(ii) (I) The patient was previously diagnosed and received treatment or services for that diagnosis and the patient returns to physical therapy within 60 days of discharge from physical therapy for problems and symptoms that are related to the initial referral to the physical therapist. In such a situation the physical therapist shall notify the original referral source of the return to physical therapy within five business days; and

(II) The physical therapist holds a master or doctorate degree from a professional physical therapy program that is accredited by a national accreditation agency recognized by the United States Department of Education and approved by the Georgia State Board of Physical Therapy or the physical therapist has completed at least two years of practical experience as a licensed physical therapist.

If after 90 days of initiating physical therapy services the physical therapist determines that no substantial progress has been made with respect to the primary complaints of the patient, the physical therapist shall refer the patient to an appropriately licensed practitioner of the healing arts. If at any time the physical therapist has reason to believe that the patient has symptoms or conditions that require treatment or services beyond the scope of practice of the physical therapist, the physical therapist shall refer the patient to an appropriately licensed practitioner of the healing arts; or

(B) In the case of practice as a physical therapist assistant, practiced other than under the supervision and direction of a licensed physical therapist;

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(2) Displayed an inability or has become unable to practice as a physical therapist or as a physical therapist assistant with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition:

(A) In enforcing this paragraph the board may, upon reasonable grounds, require a licensee or applicant to submit to a mental or physical examination by an appropriate practitioner of the healing arts designated by the board. The expense of such mental or physical examination shall be borne by the licensee or applicant. The results of such examination shall be admissible in any hearing before the board, notwithstanding any claim of privilege under a contrary rule of law or statute, including, but not limited to Code Section 24-9-21. Every person who shall accept the privilege of practicing physical therapy in this state or who shall file an application for a license to practice physical therapy in this state shall be deemed to have given his or her consent to submit to such mental or physical examination and to have waived all objections to the admissibility of the results in any hearing before the board upon the grounds that the same constitutes a privileged communication. If a licensee or applicant fails to submit to such an examination when properly directed to do so by the board, unless such failure was due to circumstances beyond his or her control, the board may enter a final order upon proper notice, hearing, and proof of such refusal. Any licensee or applicant who is prohibited from practicing physical therapy under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate to the board that he or she can resume or begin the practice of physical therapy with reasonable skill and safety to patients;

(B) For the purposes of this paragraph, the board may, upon reasonable grounds, obtain any and all records relating to the mental or physical condition of a licensee or applicant, including psychiatric records; and such records shall be admissible in any hearing before the board, notwithstanding any privilege under a contrary rule of law or statute, including, but not limited to, Code Section 24-9-21. Every person who shall accept the privilege of practicing physical therapy in this state or who shall file an application to practice physical therapy in this state shall be deemed to have given his or her consent to the board's obtaining any such records and to have waived all objections to the admissibility of such records in any hearing before the board upon the grounds that the same constitute a privileged communication; and

(C) If any licensee or applicant could, in the absence of this paragraph, invoke a privilege to prevent the disclosure of the results of the examination provided for in subparagraph (A) of this paragraph or the records relating to the mental or physical condition of such licensee or applicant obtained pursuant to subparagraph (B) of this paragraph, all such information shall be received by the board in camera and shall not be disclosed to the public, nor shall any part of the record containing such information be used against any licensee or applicant in any other type of proceeding;

(3) Been convicted of a felony or crime involving moral turpitude in the courts of this state, the United States, or the conviction of an offense in another jurisdiction

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which if committed in this state would be deemed a felony. For the purpose of this Code section, a "conviction" shall include a finding or verdict of guilty, a plea of guilty, or a plea of nolo contendere in a criminal proceeding regardless of whether the adjudication of guilt or sentence is withheld or not entered thereon pursuant to the provisions of Code Sections 42-8-60 through 42-8-64, relating to first offenders, or any comparable rule or statute;

(4) Knowingly made misleading, deceptive, untrue, or fraudulent representations to a patient, consumer, or other person or entity in connection with the practice of physical therapy or in any document connected therewith; practiced fraud or deceit or intentionally made any false statement in obtaining or attempting to obtain a license to practice physical therapy or as a physical therapist assistant; or made a false or deceptive biennial registration with the board;

(5) Practiced physical therapy contrary to this Code section or to the rules and regulations of the board; knowingly aided, assisted, procured, or advised any person to practice physical therapy contrary to this Code section or to the rules and regulations of the board; or knowingly performed any act which in any way aids, assists, procures, advises, or encourages any unlicensed person to practice physical therapy;

(6) Engaged in any unprofessional, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct or practice need not have resulted in actual injury to any person; unprofessional conduct shall also include any departure from, or the failure to conform to, the minimal standards of acceptable and prevailing physical therapy practice or the failure to comply with the code of ethics of the board;

(7) Failed to report to the board any act or omission of a licensee or applicant or any other person which violates the provisions of this subsection; or

(8) Divided fees or agreed to divide fees received for professional services with any person, firm, association, corporation, or other entity for bringing or referring a patient.

(b)(1) When the board finds that any person is unqualified to be granted a license or finds that any person should be disciplined pursuant to subsection (a) of this Code section, the board may take any one or more of the following actions:

(A) Refuse to grant or restore a license to an applicant;

(B) Administer a public or private reprimand, but a private reprimand shall not be disclosed to any person except the licensee;

(C) Suspend any license for a definite period;

(D) Limit or restrict any license;

(E) Revoke any license;

(F) Condition the penalty or withhold formal disposition, upon the physical therapist's, physical therapist assistant's, or other person's submission to the care, counseling, or treatment of physicians or other professional persons, and the completion of such care, counseling, or treatment, as directed by the board; or

(G) Impose a fine not to exceed \$500.00 for each violation of law, rule, or regulation of the board.

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(2) In addition to or in conjunction with the actions enumerated pursuant to paragraph

(1) of this subsection the board may make a finding adverse to the licensee or applicant but withhold imposition of judgment and penalty, or it may impose the judgment and penalty but suspend enforcement thereof and place the licensee or applicant on probation, which probation may be vacated upon noncompliance with such reasonable terms as the board may impose.

(c) In its discretion, the board may restore and reissue a license issued under this chapter or any antecedent law and, as a condition thereof, it may impose any disciplinary or corrective measure provided in this chapter.

(d) A person, firm, corporation, association, authority, or other entity shall be immune from civil and criminal liability for reporting the acts or omissions of a licensee or applicant which violate the provisions of subsection (a) of this Code section or any other provision of law relating to a licensee's or applicant's fitness to practice as a physical therapist or as a physical therapist assistant, if such report is made in good faith without fraud or malice. Any person who testifies without fraud or malice before the board in any proceeding involving a violation of the provisions of subsection (a) of this Code section or any other law relating to a licensee's or applicant's fitness to practice as a physical therapist or as a physical therapist assistant shall be immune from civil and criminal liability for so testifying.

§ 43-33-19. Unlicensed practice as constituting public nuisance; injunctions

The practice of physical therapy is declared to be an activity affecting the public interest and involving the health, safety, and welfare of the public. Such practice when engaged in by a person who is not licensed is declared to be harmful to the public health, safety, and welfare. The board or the district attorney of the circuit where such unlicensed practice exists, or any person or organization having an interest therein, may bring a petition to restrain and enjoin such unlicensed practice in the superior court of the county where such unlicensed person resides. It shall not be necessary in order to obtain an injunction under this Code section to allege or prove that there is no adequate remedy at law, or to allege or prove any special injury.

§ 43-33-20. Penalty

Any person convicted of violating this chapter shall be guilty of a misdemeanor.

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Rules of the Georgia State Board of Physical Therapy (Chapter 490)

The following is an edited version of The Rules of Georgia State Board of Physical Therapy (Chapter 490). To view the chapter in its entirety, go to: <http://sos.georgia.gov/acrobat/plb/rules/chapt490.pdf>

Chapter 490-1 Organization of the Board

490-1-.01 Organization of Board.

The Board of Physical Therapy is composed of eight members who are appointed by the Governor. Members of the public may obtain information from the Board and make submissions or requests to the Board by contacting the Joint Secretary of the Professional Licensing Boards Division, 237 Coliseum Dr., Macon, GA 31217.

Chapter 490-2 Licensure Requirements

490-2-.01 Application For Licensure And Examination.

- (1) A completed application for examination must be submitted and approved prior to taking the examination.
- (2) Any physical therapist or physical therapist assistant who plans to practice as a physical therapist or physical therapist assistant in the State of Georgia must be licensed by the Board prior to beginning said practice.
- (3) Any applicant who does not submit required documentation within one year of initial filing date will not be given further consideration by the Board until submission of new application and payment of appropriate fees.
- (4) All applicants for licensure and examination are also subject to the provisions of O.C.G.A. §§43-1-19 and 43-33-18.

490-2-.02 Licensure: Examination.

- (1) All physical therapists and physical therapist assistants are required to submit a completed application, the appropriate fee, and pass an examination for licensure to practice the profession in Georgia except as provided for in O.C.G.A. Sec. 43-33-15. The Board may at its discretion grant a license to an applicant who has previously taken and completed, within the requirements as set by the Board, the examination required.
 - (a) All applicants who are graduates of Commission on Accreditation in Physical Therapy Education (CAPTE) accredited schools and are applying for licensure must submit:
 1. passing scores from the national licensing examination; and
 2. passing scores from examination on the laws governing the practice of physical therapy in Georgia and the rules of the Georgia State Board of Physical Therapy; and
 3. official transcript from the institution granting the entry level degree in physical therapy or physical therapist assistant indicating the date of graduation.

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(b) Verification of licensure in all states in which the licensure candidate holds a license or has ever held a license may be conducted by board staff.

490-2-.09 Licensure: Endorsement.

(1) The Board may, in its discretion register a physical therapist or physical therapist assistant without an examination as set forth in Official Code of Georgia Annotated Section 43-33-15 upon payment of applicable fees. (Refer to fee schedule)

(2) Any applicant applying for licensure pursuant to O.C.G.A. 43-33-15 and who is a graduate of a physical therapy or physical therapist assistant program accredited by the Commission on Accreditation of Physical Therapy Education (CAPTE) and approved by the Board, must provide:

- (a) a list of all states where the applicant holds an active license; and
- (b) verification of licensure in good standing from the state board of all states in which the applicant has actively practiced in the two years immediately preceding the date of this application; and
- (c) official transcript from the institution granting the entry level degree in physical therapy or physical therapist assistant indicating the date of graduation; and
- (d) scores from the national licensing examination.

(3) Any applicant applying for licensure pursuant to O.C.G.A. 43-33-15 who is a graduate of a physical therapy or physical therapist assistant program not accredited by the Commission on Accreditation of Physical Therapy Education (CAPTE) or approved by the Board, must provide:

- (a) a list of all states where the applicant holds an active license; and
- (b) verification of licensure in good standing from the state board of all states in which the applicant has actively practiced in the two years immediately preceding the date of this application; and
- (c) official evaluation and transcript from a credential evaluation organization approved by the State of Georgia; and
- (d) scores from the national licensing examination.

(4) Proper proof of licensure in good standing from the state(s) where the applicant practiced in the two years immediately preceding this application, proof of graduation from an accredited physical therapy or physical therapist assistant program or credential evaluations deemed substantially equivalent to the professional degree, and satisfactory completion of the licensing examination shall be deemed to be prima facie evidence of compliance with Code Section 43-33-15. The Board, however, may request further verification of any credential submitted if deemed necessary to evaluate the application.

Chapter 490-3 Evaluation of Examinations: Applicants

490-3-.01 Evaluation of Examinations.

The passing level for the physical therapist and the physical therapist assistant licensing examinations shall be determined by the Board.

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490-3-.02 Re-examination.

(1) An applicant who fails the examination on the first attempt may submit a reexamination application to the Board to be made eligible to test a second time.

(2) An applicant who fails the examination on the second attempt must submit the following before being made eligible to test a third time:

(a) A copy of his/her “Examination Performance Feedback Report” obtained from the Federation of State Boards of Physical Therapy (FSBPT), and pay all costs associated with acquiring the report.

(b) A remediation plan addressing each area of weakness/failure. Examination preparation courses will be considered provided that such course addresses the area(s) of weakness/failure. The remediation plan must be developed in consultation with an appropriately licensed physical therapist or physical therapy assistant, or by a faculty member of a CAPTE-accredited program.

(c) Proof of satisfactory completion of such remediation plan.

1. An applicant may be approved administratively to take the examination a third time after the above outlined procedure has been completed and approved.

(3) An applicant who fails the examination three (3) or more times must submit a remediation plan as outlined above in 490-3-.02(2)(a) and (b). The remediation plan must be approved by the Board prior to the applicant’s beginning or initiating the plan. An applicant may be approved to take the examination only after proof of satisfactory completion of the approved plan has been submitted.

490-3-.03 Hearings.

An applicant to whom the Board has refused examination may have a hearing before the Board.

Chapter 490-4 Renewal: Continuing Competence Requirements, Disciplinary Sanctions

490-4-.01 Renewal of License and Penalties.

(1) Every licensed physical therapist and physical therapist assistant shall biennially apply to the Board for renewal of his/her license, submit proof of continuing competency requirements and pay a renewal fee by October 31st of odd years. Refer to fee schedule and 490-4-.02.

(2) A license that is not renewed on or before October 31st shall be assessed a late fee. Refer to fee schedule for penalty fee.

(3) A license that is not renewed on or before December 31st of the renewal year shall lapse and be of no force and effect and shall by operation of the law be revoked.

(4) A physical therapist or physical therapist assistant who has been previously licensed in this State who has allowed his/her license to become revoked due to failure to renew, shall be required to submit an application for reinstatement, pay appropriate fee (refer to fee schedule), and shall also be required to meet requirements as provided below:

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- (a) An applicant who is able to document that he/she has practiced as a physical therapist or physical therapist assistant within 2 years shall be required to submit proof of continuing competence requirements as established by the Board;
- (b) An applicant, who is unable to document that he/she has practiced as a physical therapist or physical therapist assistant within 2 years but able to document such practice within 5 years, shall be required to submit proof of continuing competence (Refer to 490-4-.02), and shall be required to work under the supervision of a physical therapist licensed in this state for 1,000 hours of continuous supervised practice to be completed in no more than 1 year and no less than 6 months with specific stipulations as deemed necessary by the Board; and shall be required to take and pass the examination on the laws governing the practice of physical therapy in Georgia and the rules of the Georgia State Board of Physical Therapy.;
- (c) An applicant who is unable to document that he/she has practiced as a physical therapist or physical therapist assistant within 5 years shall be required to work under the supervision of a physical therapist licensed in this state for 1,000 hours of continuous supervised practice to be completed in no more than 1 year and no less than 4 months with specific stipulations as deemed necessary by the Board and shall be required to take and pass the following examinations: the licensing examination, and the examination on the laws governing the practice of physical therapy in Georgia and the rules of the Georgia State Board of Physical Therapy.
- (5) Applicants subject to Rule 490-4-.01(4)(a) may in the discretion of the Board be exempted from continuing competence requirements if such person holds a current license in good standing in another state or if such person is currently employed as a physical therapist or physical therapist assistant by the United States Government if such person provides physical therapy services under the direction or control of the employing organization.

490-4-.02 Continuing Competence Requirements.

- (1) The Georgia State Board of Physical Therapy requires each licensed physical therapist and physical therapist assistant to participate in a minimum number of thirty (30) clock hours of experience per licensure period to promote continuing competence. **The Board has defined the requirements for competence as planned learning experiences which the licensee can show is intended to increase their present skill level and that the content is beyond the licensees' present level of knowledge and competence, which may be subject to audit by the board.** Content of the experience must relate to patient care in physical therapy whether the subject is research, treatment, documentation, education, management, or some other content area. The purpose of this requirement is to assist in assuring safe and effective practices in the provision of physical therapy services to the citizens of Georgia. In the event that a licensee does not meet this requirement, the license will not be renewed.
- (a) Continuing competence requirements may be met through the mechanisms identified in the categories, Class I and Class II.

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(b) The thirty (30) hours of continuing competence requirements per biennium include a minimum of four (4) contact hours specifically in ethics and jurisprudence as defined in the Georgia Physical Therapy Act or by passage of the Georgia Jurisprudence Examination. Passage of the examination is equivalent to the four (4) hour requirement.

(c) The total hours required biennially for continuing competence may be distributed between Class I and Class II activities. A maximum of 10 hours may be obtained through Class II activities. All required hours may be met through Class I activities. Competence credit is the clock hours spent in an activity except as noted below. Any Class I activity without a stated maximum number of hours may be used to accrue all required hours.

(d) A maximum of ten (10) continuing competence credit hours will be accepted per calendar day.

(2) Class I and Class II acceptable continuing competence credit shall be awarded to programs sponsored by Continuing Competence providers as noted in the board by policy, provided that the content is beyond the licensee's present level of knowledge and competence which may be subject to audit by the Board.

(3) Unacceptable activities for continuing competence include, but are not limited to:

- (a) Orientation and in-service programs;
- (b) Meetings for purposes of policy decisions;
- (c) Non-educational meeting at annual association, chapter or organization meetings;
- (d) Entertainment or recreational meeting or activities;
- (e) Committee meetings, holdings of offices, serving as an organization delegate;
- (f) Visiting exhibits;
- (g) CPR.

(4) Continuing competence requirements shall apply within the first biennium that a physical therapist/physical therapist assistant is licensed in Georgia. However, licensees who have graduated during the current renewal biennium and who have passed the National Physical Therapy Examination are exempt from the continuing competence requirement during the biennium in which they have graduated and successfully passed the exam.

(5) Individuals licensed during the last six (6) months of a biennium renewal period will not be required to meet continuing competence requirements for that biennium.

(6) Individuals who have been reinstated within the last six (6) months of a biennium renewal period may use the continuing competence coursework used for reinstatement, thereby making them exempt from the requirement for that biennium renewal period.

(7) Those licensees selected for audit shall submit the Verification of Continuing Competence form and documentation of compliance upon receipt of notice. Acceptable documentation shall include:

- (a) An official program or outline of the course attended or taught or a copy of the publication which clearly shows that the objectives and content were related to

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patient care in physical therapy and shows the number of contact hours, as appropriate. The information also should clearly identify the licensee's responsibility in teaching or authorship; and,

(b) A certificate or verification of completion of home study which identifies the sponsoring entity or maintain a copy of the final grade report in the case of a University credit course(s), or specialization certificate, or proof of attendance with a copy of the program for the other acceptable activities, or documentation of self-instruction or reading professional literature; or,

(c) Verification of a peer review of practice with verification of acceptable practice by a recognized entity. An example of a recognized entity is the American Physical Therapy Association Board Policy (See APTA Policy G03-05-15-40).

(8) Responsibilities of the Licensee:

(a) To maintain the documents identified in number (5) above for no less than three (3) years from the beginning date of the licensure period. These records should be maintained in the licensee's personal files for no less than three (3) years from the beginning date of the licensure period through the even numbered year after the license is renewed.

(b) To complete all steps necessary to meet the relicensure requirements on or before December 31st of the odd numbered years.

(c) To provide the Board with information requested during an audit.

(d) To keep a current mailing address on file with the Licensing Board Office at all times.

Policy #7 - Continuing Competence Policy

The Georgia State Board of Physical Therapy requires each licensed physical therapist and physical therapist assistant to participate in a minimum number of thirty (30) clock hours of experience to promote continuing competence per licensure period. **The Board has defined the requirements for competence as planned learning experiences which have content beyond the licensee's present level of knowledge and competence which may be subject to audit by the board.** Content of the experience must relate to patient care in physical therapy whether the subject is research, treatment, documentation, education, management, or some other content area. The purpose of this requirement is to assist in assuring safe and effective practices in the provision of physical therapy services to the citizens of Georgia. In the event that a licensee does not meet this requirement, the license will not be renewed. The following are programs which may be included for approval; however, this list is not limited to these suggested programs.

The following programs may be considered for Class I approval, but are not limited to:

(a) Programs approved by the American Physical Therapy Association and its affiliate components; or

(b) Programs approved by the Physical Therapy Association of Georgia or any other state chapters; or

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- (c) Programs approved by the Federation of State Boards of Physical Therapy; or
- (d) Programs provided at CAPTE-Accredited colleges and universities with programs in physical therapy when the continuing competency course is held under the auspices of the school of physical therapy; or
- (e) Programs provided by the American Academy of Physical Therapy; or
- (f) Programs approved by another state board; or
- (g) Programs provided at JCAHO-accredited healthcare organizations; or
- (h) Programs provided by the American Academy of Orthopedic Surgeons; or
- (i) Programs provided by the National Athletic Trainers Association; or
- (j) Programs provided by the American Dental Association; or
- (k) Programs provided by the American Association of Nurses; or
- (l) Programs provided by the American Occupational Therapy Association; or
- (m) Fifteen (15) hours for undergoing a peer review; or
- (n) Ten (10) hours for conducting a peer review when that activity is an adjunct responsibility and not the primary employment; or
- (o) Participation as a presenter for continuing education courses, workshops, seminars or symposia which have been approved by the approved list above; Continuing competence credit is based on contact hours and may not exceed 10 hours per topic;
- (p) Authorship of a presented scientific poster, scientific platform presentation or published article; Continuing competence credit is 10 hours per event and may not exceed 20 hours;
- (q) Teaching a physical therapist or physical therapist assistant credit course when that teaching is an adjunct responsibility and not the primary employment; Continuing competence credit is based on contact hours not to exceed 20 hours;
- (r) Certification of clinical specialization by the America Board of Physical Therapy Specialties. Continuing competence credit is 30 hours and is recognized only in the biennium in which certification or recertification is awarded.

The following programs may be considered for Class II approval (limited to 10 hours):

- (a) Self- instruction from reading professional literature; Continuing competence credit is limited to a maximum of five (5) hours; or
- (b) Attendance at a scientific poster session, lecture, panel, symposium or university course that does not meet the criteria for Class I; Continuing competency credit is one hour per contact hour of activity; or
- (c) Acting as a clinical education instructor for an accredited physical therapist or physical therapist assistant educational program; Continuing competence credit is one (1) hour per eight (8) contact hours; or
- (d) Acting as a clinical instructor or an intern for a formal, nonacademic, advanced clinical internship or as a mentor or a learner for a formal, nonacademic mentorship.

Continuing competency hours obtained between October 31, 2007 and December 31, 2007, which were not used as continuing competency hours for the 2006-2007 biennium, may be used as continuing competency hours for the

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2008-2009 biennium. The rolling over of these hours will not be allowed for future bienniums.

490-4-.04 Inactive License.

(a) Any licensee who is no longer practicing as a physical therapist or physical therapist assistant in the State of Georgia may request an Inactive License status by filing an application for inactive status and paying the appropriate fee. Refer to fee schedule.

(1) An individual holding inactive status may not practice as a physical therapist or work as a physical therapist assistant within the State of Georgia.

(2) Any individual holding inactive status is not subject to the biennial renewal fees or continuing competence requirements.

(3) An individual whose license is under any sanction may not transfer to inactive status while sanctions are in effect.

(4) Any individual holding inactive status may return to active status by meeting all requirements for reinstatement as outlined herein.

(b) A physical therapist or physical therapist assistant who has been granted an Inactive

License may reinstate the license by submitting an application for reinstatement, pay appropriate fee (refer to fee schedule), and shall also be required to meet requirements as provided below:

(1) An applicant who is able to document that he/she has practiced as a physical therapist or physical therapist assistant within 2 years shall be required to submit proof of continuing competence requirements as established by the Board;

(2) An applicant, who is unable to document that he/she has practiced as a physical therapist or physical therapist assistant within 2 years but able to document such practice within 5 years, shall be required to submit proof of continuing competence (Refer to 490- 4-.02), and shall be required to work under the supervision of a physical therapist licensed in this state for 1,000 hours of continuous supervised practice to be completed in no more than 1 year and no less than 4 months with specific stipulations as deemed necessary by the Board;
or

(3) An applicant who is unable to document that he/she has practiced as a physical therapist or physical therapist assistant within 5 years shall be required to work under the supervision of a physical therapist licensed in this state for 1,000 hours of continuous supervised practice to be completed in no more than 1 year and no less than 4 months with specific stipulations as deemed necessary by the Board and shall be required to take and pass the next licensing examination.

(c) Applicants subject to Rule 490-4-.04(b) may in the discretion of the Board be exempted from continuing competence and supervision requirements if such person holds a current license in good standing in another state or if such person is currently employed as a physical therapist or physical therapist assistant by the United States Government if such person provides physical therapy services under the direction or control of the employing organization.

Chapter 490-5 Supervision & Direction of Physical Therapist Assistant

490-5-.01 Responsibility of the Licensed Physical Therapist in Supervision and Direction of the Physical Therapy Assistant. Amended.

(1) A licensed physical therapist shall at all time be responsible for providing adequate supervision of the assistant supervised by him, as defined in Rule 490-5-.02.

(2) The licensed physical therapist shall be present in the same institutional setting, as defined in paragraph (3) of this section, 50 percent of any work week or portion thereof that the assistant is on duty, and shall be readily available to the assistant at all other times for advice, assistance and instruction.

(3) "Institutional setting" means any nursing home, acute hospital, convalescent hospital, rehabilitation center, other in-patient facility by any other name and out-patient clinic which would include private office.

(4) The licensed physical therapist in the home health setting responsible for the patient shall supervise the physical therapist assistant working with the patient and shall:

(a) perform the initial patient evaluation to establish a physical therapy diagnosis, treatment goals, frequency, duration, and plan of care;

(b) meet with the assistant no less than once weekly to review all patients being treated;

(c) document all meetings with the assistant and subsequent decisions;

(d) make an on-site visit to each patient being treated by the assistant as appropriate based on the need to alter the treatment plan and no less than every sixth visit;

(e) document the on-site visit, changes in the treatment plan, and communication to the assistant;

(f) be available to the assistant at all times for advice, assistance, and instructions.

(5) A licensed physical therapist shall be designated as the physical therapist assistant's supervisor in the school setting and shall:

(a) perform all physical therapy evaluations to develop or amend physical therapy interventions stated on the student's Individual Educational Plan (IEP) for the purpose of assisting with the achievement of educational goals and objectives, including frequency and duration of physical therapy services.

(b) make an on-site visit to each student scheduled for direct weekly services from the physical therapist assistant no less than every fourth scheduled week, and no less than once every three months for students who are scheduled with the physical therapist assistant once monthly or less. The on-site visit shall include, but not be limited to, a case review, reassessment of the program and physical therapy services and review of documentation prepared by the physical therapist assistant.

(c) document the on-site visit including status of case(s), program or services status or change and indicate instructions given to the physical therapist assistant.

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(d) interact with the physical therapist assistant in appropriate ways specific to the goals and objectives stated in the IEP of the student who is scheduled for sessions with the physical therapist assistant.

(e) be available to the physical therapist assistant at all times for advice, assistance and instructions.

490-5-.02 Adequate Supervision Defined. Amended.

Adequate supervision by a licensed physical therapist shall include the following:

(a) evaluate each patient and interpret the results to determine and document a physical therapy diagnosis;

(b) plan each patient's treatment program and determine which elements thereof can be delegated to the assistant;

(c) provide periodic reevaluation of the treatment program and of the assistant's performance in relation to the patient;

(d) perform and record an evaluation of the patient and his response to treatment at the termination thereof;

(e) Interact with the assistant in appropriate ways specific to the plan of care of the patients being treated by the assistant.

Chapter 490-8 Physical Therapy Aides: Definition & Requirements

490-8-.01 Definition.

A physical therapy aide, or anyone who holds himself out as being a physical therapy aide, is an individual other than a licensee under O.C.G.A. 43-33 who aids the licensed physical therapist or physical therapist assistant in the licensee's provision of physical therapy services and whose activities do not require technical training through a formal course of study.

490-8-.02 Supervision.

The physical therapy aide must have direct supervision on the premises at all times when providing supportive activities for the physical therapist or the physical therapist assistant.

(a) For purposes of this rule, "direct supervision" shall mean on the premises and immediately available at all times.

(b) For purposes of this rule, "on the premises" shall mean the immediate area of the patient.

(c) A licensee of this chapter may supervise a maximum of two (2) physical therapy aides when they are aiding the licensee's provision of patient evaluation and intervention.

490-8-.03 Duties.

For purposes of this Rule, the term, "designated physical therapy tasks," as referenced in O.C.G.A. 43-33-13.1, shall be limited to the following:

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(a) Physical therapy aides may perform the following tasks independent of supervision by a licensed physical therapist or licensed physical therapist assistant:

1. Clerical tasks excluding treatment documentation.

(i) "Treatment Documentation" is defined for purposes of this Rule as the creation, generation, composition of any patient care report and shall include but not be limited to patient evaluations, assessment, plans of care, goals, progress notes, consultation reports, discharge summaries and any other written materials related to patient management.

(ii) Nothing in this Rule shall preclude a physical therapy aide from transcribing, recording or copying treatment documentation generated by a licensee of this chapter. Any treatment documentation prepared in this or any manner, however, must be signed by the supervising licensed physical therapist or physical therapist assistant and by signing the treatment documentation, the licensee is representing that he or she either prepared the treatment documentation or supervised a physical therapy aide in the preparation of the treatment documentation consistent with the Laws and Rules Governing the Practice of Physical Therapy in the State of Georgia.

2. transporting patients;

3. assembling and disassembling equipment in treatment areas;

4. housekeeping activities

(b) The physical therapy aide, at the discretion of the licensee, may provide supportive activities to patient care when specifically meeting the criteria as set forth in 490-8-.02. Supportive activities or patient care tasks do not include the direct provision of any patient intervention, but do include only assisting a patient in preparation for treatment by a licensee, assisting a patient after cessation of treatment by a licensee, or assisting the licensee during treatment provided by that licensee. Licensed physical therapists and physical therapist assistants are the only providers of physical therapy.

Chapter 490-9 Code of Ethics

490-9-.01 Purpose.

This code shall apply to all licensed physical therapists, physical therapists assistants, and all individuals recognized in the delivery of patient care under Chapter 33 of Title 43 in the State of Georgia. It is intended to provide guidelines by which the licensees and others can determine the propriety of conduct.

Anyone found guilty of violating the ethical standards, as set forth in this chapter, shall be guilty of violating Official Code of Georgia Annotated Section 43-33-18 (a) (6).

490-9-.02 Principles of Conduct for Licensed Physical Therapists.

Any individual who is licensed as a physical therapist shall abide by the following ethical standard:

(1) Act with consideration, within the scope of physical therapy, for the rights and dignity of all individuals.

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- (a) The physical therapist shall hold as confidential information obtained while acting in a professional capacity.
 - (b) The physical therapist shall provide optimal physical therapy care for all patients regardless of patient race, gender, age, religion, disability or sexual preference.
 - (c) The physical therapist should balance considerations of the patient's physical, psychological and socioeconomic welfare in professional decisions and actions and document these considerations in the patient's record of care.
 - (d) The physical therapist shall communicate and interact with patients and all persons encountered in a professional capacity with courteous regard and timeliness.
 - (e) The physical therapist shall not engage in any behavior that constitutes harassment or abuse of a patient, professional colleague or associate.
- (2) Comply with the laws and regulations governing the practice of physical therapy in the State of Georgia.
- (a) Physical therapists are to practice (consultation, evaluations, treatment, research, education, administration and preventive care) in accordance with the state practice act.
 - (3) Accept responsibility for the exercise of sound judgment.
 - (a) When implementing treatment, physical therapists shall assume the responsibility for evaluating that individual; planning, implementing, and supervising the therapeutic program; reevaluating and changing the program; and maintaining adequate records of the case, including progress reports.
 - (b) When performing wellness and preventative services, physical therapists shall assume responsibility for providing optimal patient care.
 - (c) When the individual's needs are beyond the scope of the physical therapist's expertise, the physical therapist shall so inform and assist the individual in identifying a qualified person to provide the necessary services.
 - (d) When the physical therapists judge that benefit can no longer be obtained from their services, they shall so inform the individual receiving the services. It is unethical to initiate or continue services that, in the therapist's judgment, either cannot result in beneficial outcome or are contraindicated.
 - (e) The physical therapist's ability to make independent judgment must not be limited or compromised by professional affiliations, including employment relationships.
 - (f) Physical therapists are not to delegate to a less qualified person any activity which requires the unique skills, knowledge, and judgment of a physical therapist.
 - (g) The primary responsibility for physical therapy care assisted by supportive personnel rests with the supervising physical therapist. Adequate supervision requires, at a minimum, that a supervising physical therapist perform the following activities:
 - 1. Establish effective channels of written and oral communication;
 - 2. Interpret and communicate critical information about the patient to the supportive personnel;

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3. Perform an initial evaluation of the patient;
4. Develop a plan of care, including short and long-term goals;
5. Delegate appropriate tasks to supportive personnel;
6. Assess the supportive personnel's competence to perform assigned tasks;
7. Provide supervision in accordance with the law, the patient's condition, and the specific situation;
8. Identify and document precautions, special programs, contraindications, goals, anticipated progress, and plans for re-evaluation;
9. Re-evaluate the patient, modify the plan of care when necessary, perform the final evaluation, and establish a follow-up plan.

(h) Physical therapists are obligated to advise their employer(s) of any practice which causes a physical therapist to be in conflict with the ethical principles of this section.

Physical therapists are to attempt to rectify any aspect(s) of their employment which is in conflict with the principles of this section.

(4) Seek remuneration for their services that is deserved and reasonable.

(a) Fees for physical therapy services should be reasonable for the service performed, considering the setting in which it is provided, practice costs in the geographic area, judgment of other organizations, and other relevant factors.

(b) Physical therapists shall not:

1. directly or indirectly request, receive, or participate in the dividing, transferring, assigning, or rebating of an unearned fee;
2. profit by means of a credit or other valuable consideration, such as an unearned commission, discount, or gratuity in connection with furnishing of physical therapy services;
3. use influence upon individuals, or families of individuals under their care for utilization of any product or service based upon the direct or indirect financial interest of the physical therapist.

(5) Provide accurate information to the consumer about the profession and the services provided.

(a) Physical therapists are not to use, or participate in the use of, any form of communication containing false, plagiarized, fraudulent, misleading, deceptive, or unfair statements.

(6) Accept the responsibility to protect the public and the profession from unethical, incompetent, or illegal acts.

(a) Physical therapists shall report any activity which appears to be unethical, incompetent, or illegal to the proper authorities.

(b) Physical therapists shall not participate in any arrangement in which patients are exploited due to the referring sources enhancing their personal incomes as a result of referring, prescribing, or recommending physical therapy or a specific physical therapy practice.

(c) If a physical therapist is involved in an arrangement with a referring source in which income is derived from the services, the physical therapist has an obligation to disclose to the patient, within the scope of the state law, the nature of the income.

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490-9-.03 Principles of Conduct for Licensed Physical Therapist Assistants.

Any individual who is licensed as a physical therapist assistant shall abide by the following ethical standards:

(1) Act with consideration, within the scope of physical therapy, for the rights and dignity of all individuals.

(a) The physical therapist assistant shall hold as confidential information obtained while functioning as a physical therapist assistant.

(b) The physical therapist assistant shall provide optimal physical therapy care for all patients delegated by the physical therapist regardless of patient race, gender, age, religion, disability or sexual preference.

(c) The physical therapist assistant should be aware of the patient's physical, psychological and socioeconomic welfare in decisions and actions taken while rendering treatment.

(d) The physical therapist assistant shall communicate and interact with patients and all persons encountered with courteous regard and timeliness.

(e) The physical therapist assistant shall not engage in any behavior that constitutes harassment or abuse of a patient, professional colleague or associate.

(2) Comply with the laws and regulations governing the practice of physical therapy in the State of Georgia.

(a) Physical therapist assistants are to practice only under the supervision of a licensed physical therapist.

(3) Accept responsibility for the exercise of sound judgment.

(a) Upon accepting delegation from a physical therapist, the physical therapist assistant shall provide services within the plan of care established by the physical therapist.

(b) When the individual's needs are beyond the scope of the physical therapist assistant's expertise, the physical therapist assistant shall inform the supervising physical therapist.

(c) When the physical therapist assistant determines that a change in the plan of care is needed, the assistant will contact the supervising physical therapist and request reevaluation of the patient's status.

(d) When the physical therapist assistant determines that the patient has received maximum benefits from physical therapy, he/she shall so inform the supervising physical therapist.

(e) Physical therapist assistants are not to delegate to a less qualified person any activity which requires the unique skills, knowledge, and judgment of a physical therapist assistant.

(f) The primary responsibility for physical therapy care assisted by supportive personnel rests with the supervising physical therapist. Adequate supervision is the responsibility of both the physical therapist and the physical therapist assistant. To insure appropriate supervision, the physical therapist assistant is expected to:

1. Maintain effective channels of written and oral communication.

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2. Communicate critical information about the patient to the supervising physical therapist in a timely manner.
3. Function within the established plan of care.
4. Identify and document treatment activities and all special occurrences.
5. Request re-evaluation of the patient and/or modification of the plan of care when necessary.

(g) Physical therapist assistants are obligated to advise their employer(s) of any practice which causes a physical therapist or a physical therapist assistant to be in conflict with the ethical principles of this section. Physical therapist assistants are to attempt to rectify any aspect(s) of their employment which is in conflict with the principles of this section.

4. Seek remuneration for their services that is deserved and reasonable.

(a) Physical therapist assistants shall not:

1. Directly or indirectly request, receive, or participate in the dividing, transferring, assigning, or rebating of an unearned fee;
2. Profit by means of a credit or other valuable consideration, such as an unearned commission, discount, or gratuity in connection with furnishing of physical therapy services;
3. Use influence upon individuals, or families of individuals under their care for utilization of any product or service based upon the direct or indirect financial interest of the physical therapist assistant;

(5) Provide accurate information to the consumer about the profession and the services provided.

(a) Physical therapist assistants are not to use, or participate in the use of, any form of communication containing false, plagiarized, fraudulent, misleading, deceptive, or unfair statements.

(6) Accept the responsibility to protect the public and the profession from unethical, incompetent, or illegal acts.

(a) Physical therapist assistants shall report any activity which appears to be unethical, incompetent, or illegal to the proper authorities.

(b) Physical therapist assistants shall not participate in any arrangement in which patients are exploited due to the referring sources enhancing their personal incomes as a result of referring, prescribing, or recommending physical therapy or a specific physical therapy practice.

(c) If a physical therapist assistant is involved in an arrangement with a referring source in which income is derived from the services, the physical therapist assistant has an obligation to disclose to the patient, within the scope of the State Law, the nature of the income.

490-9-.04 Disciplinary Sanctions.

When providing physical therapy treatment following appropriate consultation, unprofessional and unethical conduct shall include but is not limited to the following:

(a) Failing to adhere to the Code of Ethics for Physical Therapists and Physical Therapists Assistants, as codified in Rules 490-9-.01 through 490-9-.03.

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- (b) Delegating to an aide or unlicensed person any physical therapy task other than those codified in Chapter 490-8.
- (c) Failing to provide continuous, immediate and physically present supervision of the aide or unlicensed person when designated tasks are performed.
- (d) Failing to provide an evaluation on each patient and establishing a physical therapy diagnosis.
- (e) Failing to formulate and record in the patient's record a treatment program based upon the evaluation and any other information available.
- (f) Failing to perform periodic evaluation of the patient and documenting the evaluations in the patient's record and to make adjustments to the patient's treatment program as progress warrants.
- (g) Failing to formulate and record a patient's discharge plan.
- (h) Directly or indirectly requesting, receiving or participating in the division, transferring, assigning, rebating or refunding of fees or remuneration earned, in cash or kind, for bringing or referring a patient. For purposes of this Rule:
 1. No physical therapist, physical therapy assistant, employee or agent thereof acting on his behalf, shall enter into or engage in any agreement or arrangement with any individual, entity, or an employee or agent thereof acting on his behalf, for the payment or acceptance or compensation in any form for the referral or recommending of the professional services of either. This prohibition includes any form of fee division or charging of fees solely for referral of a patient.
 2. This prohibition shall include a rebate or percentage of rental agreement or any arrangement or agreement whereby the amount received in payment for furnishing space, facilities, equipment or personnel services.
 3. Provided further, that this Rule shall not preclude a discount, waiver of co-payment or other reduction in price of services by a physical therapist if the reduction in price is properly disclosed to the consumer and third party payers and appropriately reflected in the costs claimed or charges made.

Chapter 490-10 Preventive Services

490-10-.01 Preventative Services.

A licensed physical therapist or a licensed physical therapist assistant under the supervision of an appropriately licensed physical therapist may perform Preventative services that are not considered "implementing a program of physical therapy treatment without consultation." For purposes of this rule, "Preventative services" is defined as the use of physical therapy knowledge and skills by a physical therapist or physical therapist assistant to provide education or activities in a wellness or community setting for the purpose of injury prevention, reduction of stress and or the promotion of fitness, but does not include administration of physical therapy treatment.

Chapter 490-11 Consultation

490-11-.01 Consultation.

- (1) For purposes of Official Code of Georgia Annotated, Section 43-33-18(a)(1):

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- (a) "Consultation" shall mean provision of professional advice;
- (b) "Appropriate Licensed Practitioner of the Healing Arts" shall include properly licensed practitioners in this or another state, whose consultation falls within the practitioner's legally authorized scope of practice;
- (c) For purposes of determining whether a licensed practitioner is appropriate, the physical therapist shall consider, but not be limited to, the following factors:
 - 1. Physical condition of the patient;
 - 2. Nature of ailment;
 - 3. Extent to which the consulting practitioner has knowledge of the patient's history and condition such that an informed judgment can be made concerning course of treatment.
- (b) Physical therapists shall document the consultation with the appropriate licensed practitioner of the healing arts prior to implementing a program of physical therapy treatment.

Georgia Patient Record Laws

31-33-1.

As used in this chapter, the term:

- (1) 'Patient' means any person who has received health care services from a provider.
- (2) 'Provider' means all hospitals, including public, private, osteopathic, and tuberculosis hospitals; other special care units, including podiatric facilities, skilled nursing facilities, and kidney disease treatment centers, including freestanding hemodialysis units; intermediate care facilities; ambulatory surgical or obstetrical facilities; health maintenance organizations; and home health agencies. It shall also mean any person licensed to practice under Chapter 9, 11, 26, 34, 35, or 39 of Title 43.
- (3) 'Record' means a patient's health record, including, but not limited to, evaluations, diagnoses, prognoses, laboratory reports, X-rays, prescriptions, and other technical information used in assessing the patient's condition, or the pertinent portion of the record relating to a specific condition or a summary of the record.

31-33-2.

- (a)(1)(A) A provider having custody and control of any evaluation, diagnosis, prognosis, laboratory report, or biopsy slide in a patient's record shall retain such item for a period of not less than ten years from the date such item was created.
- (B) The requirements of subparagraph (A) of this paragraph shall not apply to:
 - (i) An individual provider who has retired from or sold his or her professional practice if such provider has notified the patient of such retirement or sale and offered to provide such items in the patient's record or copies thereof to another provider of the patient's choice and, if the patient so requests, to the patient; or
 - (ii) A hospital which is an institution as defined in subparagraph (B) of paragraph (1) of Code Section 31-7-1, which shall retain patient records in accordance with

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rules and regulations for hospitals as issued by the department pursuant to Code Section 31-7-2.

(2) Upon written request from the patient or a person authorized to have access to the patient's record under a health care power of attorney for such patient, the provider having custody and control of the patient's record shall furnish a complete and current copy of that record, in accordance with the provisions of this Code section. If the patient is deceased, such request may be made by a person authorized immediately prior to the decedent's death to have access to the patient's record under a health care power of attorney for such patient; the executor, temporary executor, administrator, or temporary administrator for the decedent's estate; or any survivor, as defined by Code Sections 51-4-2, 51-4-4, and 51-4-5.

(b) Any record requested under subsection (a) of this Code section shall be furnished within a reasonable period of time to the patient, any other provider designated by the patient, any person authorized by paragraph (2) of subsection (a) of this Code section to request a patient's or deceased patient's medical records, or any other person designated by the patient.

(c) If the provider reasonably determines that disclosure of the record to the patient will be detrimental to the physical or mental health of the patient, the provider may refuse to furnish the record; however, upon such refusal, the patient's record shall, upon written request by the patient, be furnished to any other provider designated by the patient.

(d) A provider shall not be required to release records in accordance with this Code section unless and until the requesting person has furnished the provider with a signed written authorization indicating that he or she is authorized to have access to the patient's records by paragraph (2) of subsection (a) of this Code section. Any provider shall be justified in relying upon such written authorization.

(e) Any provider or person who in good faith releases copies of medical records in accordance with this Code section shall not be found to have violated any criminal law or to be civilly liable to the patient, the deceased patient's estate, or to any other person.

31-33-3.

(a) The party requesting the patient's records shall be responsible to the provider for the costs of copying and mailing the patient's record. A charge of up to \$20.00 may be collected for search, retrieval, and other direct administrative costs related to compliance with the request under this chapter. A fee for certifying the medical records may also be charged not to exceed \$7.50 for each record certified. The actual cost of postage incurred in mailing the requested records may also be charged. In addition, copying costs for a record which is in paper form shall not exceed \$.75 per page for the first 20 pages of the patient's records which are copied; \$.65 per page for pages 21 through 100; and \$.50 for each page copied in excess of 100 pages. All of the fees allowed by this Code section may be adjusted annually in accordance with the medical component of the consumer price index. The Office of Planning and Budget shall be responsible for calculating this annual adjustment, which will become effective on

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July 1 of each year. To the extent the request for medical records includes portions of records which are not in paper form, including but not limited to radiology films, models, or fetal monitoring strips, the provider shall be entitled to recover the full reasonable cost of such reproduction. Payment of such costs may be required by the provider prior to the records being furnished. This subsection shall not apply to records requested in order to make or complete an application for a disability benefits program.

(b) The rights granted to a patient or other person under this chapter are in addition to any other rights such patient or person may have relating to access to a patient's records; however, nothing in this chapter shall be construed as granting to a patient or person any right of ownership in the records, as such records are owned by and are the property of the provider.

31-33-4.

The provisions of this chapter shall not apply to psychiatric, psychological, or other mental health records of a patient.

31-33-5.

Any provider releasing information in good faith pursuant to the provisions of this chapter shall not be civilly or criminally liable to the patient, guardian, parent, or any other person for such release.

31-33-6.

Nothing in this chapter shall be construed as destroying or diminishing the privileged or confidential nature of any communication now or hereafter recognized by law.

31-33-7.

(a) Notwithstanding the provisions of Code Section 31-33-4, if a law enforcement officer employed by a governmental entity is required to submit to a psychological or psychiatric examination for the purpose of assessing the law enforcement officer's fitness for duty, employment status, or assignment of duties, then, upon the written request of the law enforcement officer, the employer shall furnish to the law enforcement officer a complete copy of the evaluation or report.

(b) Any employer or health care provider furnishing or making a report or evaluation in good faith pursuant to the provisions of this Code section shall not be civilly or criminally liable to the law enforcement officer or any other person for furnishing or making such report or evaluation.

(c) If an employer reasonably determines that disclosure of the evaluation or report to the law enforcement officer will be detrimental to the mental health of the law enforcement officer, would present a risk of harm to other persons, would involve the disclosure of confidential information or would violate the privacy of a third party, then the employer may refuse to furnish the record of evaluation; provided, however, that upon such refusal the evaluation or report shall, upon written request by the law enforcement officer, be furnished by the employer to a psychiatrist or psychologist treating the law enforcement officer.

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Title 43, Chapter 1 General Provisions

§ 43-1-19.1. Waiver of deductibles or copayments in health insurance plans; deceptive or misleading advertising

(a) For the purposes of applicable provisions of Code Section 43-1-19, it shall be considered a deceptive or misleading practice for any person duly licensed and authorized to provide any type of health care services to advertise, as an inducement to attract patients, the waiver of a deductible or copayment required to be made to such person under the patient's health insurance policy or plan.

(b) This Code section shall not apply to nonprofit community health centers which primarily serve indigent patients.

(c) Notwithstanding the provisions of any other law of this Code to the contrary, it shall not be considered a misleading, fraudulent, or deceptive act for a provider to waive occasionally such a deductible or copayment required to be made under the patient's health insurance contract, policy, or plan if the waiver is authorized by the insurer or if the waiver is based on an evaluation of the individual patient and is not a regular business practice of the person providing the health care services.

§ 43-1-19.2. License applications to include questions on prior revocation or denial of license

Each application for a license to practice a profession or business to be issued by a professional licensing board or any agency of the state shall include a question as to whether the applicant for such license:

(1) Has had revoked or suspended or otherwise sanctioned any license issued to the applicant by any board or agency in Georgia or any other state; or

(2) Was denied issuance of or, pursuant to disciplinary proceedings, refused renewal of a license by any board or agency in Georgia or any other state.

The question shall be answered under oath and the answer shall include the name of the board or agency which revoked, suspended, denied, refused renewal of, or otherwise sanctioned the license.

§ 43-1-20. Actions to enjoin unlicensed practice

A professional licensing board, the division director, or the appropriate prosecuting attorney may bring an action to enjoin the unlicensed practice by any person of a profession or business required to be licensed by a professional licensing board. The action to restrain and enjoin such unlicensed practice shall be brought in the superior court of the county where the unlicensed person resides. It shall not be necessary to allege or prove that there is no adequate remedy at law to obtain an injunction under this Code section.

§ 43-1-20.1. Cease and desist orders against persons practicing without a license; fine for violating order

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(a) Notwithstanding any other provisions of the law to the contrary, after notice and hearing, a professional licensing board may issue a cease and desist order prohibiting any person from violating the provisions of this title by engaging in the practice of a business or profession without a license.

(b) The violation of any cease and desist order of a professional licensing board issued under subsection (a) of this Code section shall subject the person violating the order to further proceedings before the board, and the board shall be authorized to impose a fine not to exceed \$500.00 for each transaction constituting a violation thereof. Each day that a person practices in violation of this title shall constitute a separate violation.

(c) Initial judicial review of the decision of the board entered pursuant to this Code section shall be available solely in the superior court of the county of domicile of the board.

(d) Nothing in this Code section shall be construed to prohibit a professional licensing board from seeking remedies otherwise available by statute without first seeking a cease and desist order in accordance with the provisions of this Code section.

§ 43-1-21. Release of information regarding investigations

The division director is authorized to provide to any lawful licensing authority of this or any other state, upon inquiry by such authority, information regarding a past or pending investigation of or disciplinary sanction against any applicant for licensure by that board or licensee of that board notwithstanding the provisions of subsection (h) of Code Section 43-1-19 or any other law to the contrary regarding the confidentiality of that information. Nothing in this Code section or chapter shall be construed to prohibit or limit the authority of that director to disclose to any person or entity information concerning the existence of any investigation for unlicensed practice being conducted against any person who is neither licensed nor an applicant for licensure by a professional licensing board.

§ 43-1-22. Inactive status licenses

The division director may provide for inactive status licenses for the various professional licensing boards.

§ 43-1-23. Exemption of licensees of professional licensing boards from filing with clerk of superior court.

No licensee of a professional licensing board shall be required to file or record his license with the clerk of the superior court, and no clerk shall be required to report the filing or recordation of any such license.

§ 43-1-24. Licensed professionals subject to regulation by professional licensing board

Any person licensed by a professional licensing board and who practices a "profession," as defined in Chapter 7 of Title 14, the "Georgia Professional Corporation Act," or who renders "professional services," as defined in Chapter

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10 of Title 14, "The Georgia Professional Association Act," whether such person is practicing or rendering services as a proprietorship, partnership, professional corporation, professional association, other corporation, limited liability company, or any other business entity, shall remain subject to regulation by that professional licensing board, and such practice or rendering of services in that business entity shall not change the law or existing standards applicable to the relationship between that person rendering a professional service and the person receiving such service, including but not limited to the rules of privileged communication and the contract, tort, and other legal liabilities and professional relationships between such persons.

§ 43-1-25. Authority of professional licensing boards to promulgate rules and regulations

Except as provided in subsection (o) of Code Section 43-1-19, Code Sections 43-1-16 through 43-1-24 shall apply to all professional licensing boards and licenses thereunder, except the Georgia Real Estate Commission and its licensees, notwithstanding any other law to the contrary, and each such professional licensing board may promulgate rules and regulations to implement the authority provided by the applicability of said provisions to said boards.

§ 43-1-26. Exemption of credentialed persons from licensure, registration, or certification in the state in connection with the Olympic and Paralympic Games; conditions and limitations; consent for certain medical services; automatic repeal Repealed by Ga. L. 1994, p. 480, § 1, effective December 31, 1996.

§ 43-1-27. Licensee required to notify licensing authority of felony conviction
Any licensed individual who is convicted under the laws of this state, the United States, or any other state, territory, or country of a felony as defined in paragraph (3) of subsection (a) of Code Section 43-1-19 shall be required to notify the appropriate licensing authority of the conviction within ten days of the conviction. The failure of a licensed individual to notify the appropriate licensing authority of a conviction shall be considered grounds for revocation of his or her license, permit, registration, certification, or other authorization to conduct a licensed profession.

HIPAA

In April 2001, at the direction of President Bush and HHS Secretary Tommy G. Thompson, 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 provided patients with access to their medical records and more control over how their personal health information is used and disclosed.

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Congress required HHS to issue patient privacy protections as part of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The HIPAA law included provisions designed to encourage electronic transactions and also required new safeguards to protect the security and confidentiality of health information. In November 1999, HHS published proposed regulations to provide patients new rights and protections against the misuse or disclosure of their health records. HHS received more than 52,000 comments from the public. In December 2000, HHS issued a final rule that made significant changes from the proposed rule in response to comments.

Covered Entities

As required by HIPAA, the final regulation covers 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.

Consumer Control Over Health Information

Under the final rule, patients have significant new rights to understand and control how their health information is used.

- **Ensuring patients understand their privacy rights.** Providers and health plans will be required to give patients a clear written explanation of how the covered entity may use and disclose their health information. The proposed modifications would strengthen the notice requirements by ensuring that patients generally would be asked to acknowledge the privacy notice, while eliminating a prior written consent requirement for uses and disclosures related to treatment, payment and health care operations (TPO) that would have created significant new barriers to patients' access to care. This change would preserve patients' opportunity to consider a provider's privacy practices before making health care decisions. Patient authorization would still be required to use and disclose information for non-routine purposes.
- **Ensuring patient access to their medical records.** Patients generally will be able to see and get copies of their medical records, and request amendments. In addition, a history of most non-routine disclosures must be made available to patients on request. The proposed modifications would make clear that parents generally would have access to their children's medical records.

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- **Providing recourse if privacy protections are violated.** People will have the right to file a formal complaint with a covered provider or health plan, or with HHS, about violations of the provisions of this rule.

Boundaries on Medical Record Use and Release

With few exceptions, an individual's health information may only be used for their health care and related purposes unless the individual specifically authorizes its use for another purpose.

- **Ensuring that health information is not used for non-health purposes.** Health information covered by the rule generally may not be used for purposes not related to health care – such as disclosures to employers to make personnel decisions, or to financial institutions – without explicit authorization from the individual.
- **Clear, strong protections against marketing.** The final privacy rule set new restrictions and limits on the use of patient information for marketing purposes. The proposed modifications would explicitly require covered entities to first obtain the individual's specific authorization before sending that person any marketing materials.
- **Providing the minimum amount of information necessary.** In general, uses or disclosures of information will be limited to the minimum necessary for the purpose of the use or disclosure. This provision does not apply to the disclosure of medical records for treatment purposes because physicians, specialists, and other providers need access to the full record to provide quality care.

Safeguards for Personal Health Information

The final rule establishes the privacy safeguard standards that covered entities must meet. The requirements are flexible and scalable to account for the nature of each entity's business, and its size and resources. Covered entities generally will have to:

- **Adopt written privacy procedures.** These include a description of who has access to protected information, how it will be used within the entity, and when the information may be disclosed. Covered entities will also need to take steps to ensure that their business associates protect the privacy of health information.
- **Train employees and designate a privacy officer.** Covered entities will need to train their employees in their privacy procedures, and must designate an individual to be responsible for ensuring the procedures are followed.

Accountability for Medical Records Use and Release

In HIPAA, Congress provided penalties for covered entities that misuse personal health information.

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- **Civil penalties.** Health plans, providers and clearinghouses that violate these standards will be subject to civil liability. Civil money penalties are \$100 per violation, up to \$25,000 per year for each requirement or prohibition violated.
- **Criminal penalties.** Congress also established criminal penalties for certain actions such as knowingly obtaining protected health information in violation of the law. Criminal penalties are up to \$50,000 and one year in prison for certain offenses; up to \$100,000 and up to five years in prison if the offenses are committed under “false pretenses”; and up to \$250,000 and up to 10 years in prison if the offenses are committed with the intent to sell, transfer or use protected health information for commercial advantage, personal gain or malicious harm.

Balancing Public Responsibility with Privacy Protections

In limited circumstances, the final rule permits – but does not require – covered entities to continue certain existing disclosures of health information without individual authorization 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, generally limited to when a waiver of authorization is independently approved by a privacy board or Institutional Review 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. If there is no other law requiring that information be disclosed, covered entities will use their professional judgments to decide whether to disclose any information, reflecting their own policies and ethical principles.

Equivalent Requirements for Government Entities

The provisions of the final rule generally apply equally to private sector and public sector entities that are covered by the law. For example, both private hospitals and government medical units have to comply with the full range of requirements, such as providing notice, access rights and designation of a privacy officer.

Preserving Existing, Strong State Confidentiality Laws

State laws providing additional privacy protections continue to apply. 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. Where states have decided through law to require certain disclosures of health information, the final rule does not preempt these mandates.

Ethical & Legal Considerations

Patient Rights

1. Confidentiality

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

Case Study

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 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.

2. Care Provided By Qualified Individuals

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

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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.

Case Study

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 answer is no. In this situation, the aide's abilities and outcomes are considered irrelevant. The key sentence in the paragraph is: "perform treatments that should be done by a PT or PTA.". The "should" in this case must not be interpreted as merely a casual suggestion but rather a legal definition regulated by the state's Physical Therapy Practice Act. Any treatment or procedure that should be performed by a licensed professional must be performed by a licensed professional.

3. Informed Consent

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

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

Case Study

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?

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)

4. Care Based on Medical Necessity

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.

Case Study

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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?

No, it is not ethical. In this instance, 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. This principle is clearly defined in the APTA's Guide for Professional Conduct, Principle 7.1c

Billing & Coding

The Triad

Ethical conduct as it relates to billing and coding for rehab services, revolves around one ideological triad. The triad being: What was performed = What was documented = What was billed. All three components of the triad 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

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

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

No, it is not legal. All co-payments and deductibles must be collected. In most instances, the decision on whether or not to collect this money

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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 conspiring with the patient to defraud their insurance company. (After all, doesn't the insurance company have a legitimate argument that the patient should be paying a higher monthly premium if they don't have to pay a co-payment or deductible?) The common response given 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 the patient, without any financial responsibility, will usually attend more therapy sessions.

Conflicts of Interest

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

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

Does this represent a conflict of interest?

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

Relationships

Referral Sources

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.

Case Study

Larry Jones PT owns a private practice. Business has been poor. He decides to sublease half of his space to an orthopedic surgeon.

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Larry's current lease is at \$20/sq ft. The doctor wants to pay \$15/sq ft. They come to a compromise of \$17/sq ft. Larry also agrees that if the doctor is his top referral source after 3 months, he'll make him the Medical Director of the facility and pay him a salary of \$500/month.

Is this an ethical arrangement?

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

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- www.apta.org/PT_Practice/ethics_pt/code_ethis
- www.hhs.gov/news/press/2002pres/privacy.html

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www.ascrs.org/advocacy/starkfinalrulelongsummary.htm

www.wvbopt.com/code_of_ethics.htm

ETHICS & JURISPRUDENCE – GEORGIA PHYSICAL THERAPY

POST-TEST

1. Which Ethics Theory proposes that right and wrong are determined by the consequences?
 - A. Utilitarianism
 - B. Social Contract Theory
 - C. Deontological Theory
 - D. Virtue Ethics

2. Which of the following statements is TRUE?
 - A. Physical therapy aides must receive general supervision at all times by a licensed physical therapist or physical therapist assistant.
 - B. At least one member of the Georgia State Board of Physical Therapy must be appointed from the public at large.
 - C. Physical therapists must display either the title “physical therapist” or the abbreviation “PT” on a name tag or similar form of identification whenever they perform any physical therapy related task.
 - D. None of the above is true

3. Which of the following statements regarding physical therapy continuing competence requirements is TRUE?
 - A. The Georgia State Board of Physical Therapy requires each licensed physical therapist and physical therapist assistant to participate in a minimum number of thirty (30) clock hours of experience to promote continuing competence per licensure period.
 - B. A maximum of 10 continuing competence credit hours are accepted per calendar day.
 - C. The GA State Board of Physical Therapy defines the requirements for competence as “planned learning experiences which have content beyond the licensee’s present level of knowledge and competence.”
 - D. All of the above are true.

4. In an outpatient clinic, the physical therapist must provide onsite supervision to the physical therapist assistant at least:
 - A. 20% of the PTA’s work hours
 - B. 33% of the PTA’s work hours
 - C. 50% of the PTA’s work hours
 - D. 75% of the PTA’s work hours

5. Which of the following statements concerning physical therapy aides is TRUE?
 - A. A physical therapy aide may transcribe treatment notes prepared by a physical therapist.
 - B. Physical therapy aides must have direct supervision by a physical therapist at all times when providing supportive activities.
 - C. A physical therapist or physical therapist assistant may supervise no more than 3 physical therapy aides at one time

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- D. A physical therapy aide may provide physical therapy treatments under the direct supervision of a physical therapist.
6. According to the Georgia Code of Ethics, when the patient's needs are beyond the scope of the therapist's expertise, the therapist shall
- A. provide the best care they are capable of providing
 - B. discontinue care and refer them back to their physician
 - C. assist the patient in identifying a qualified person to provide the necessary services.
 - D. Provide the patient with a referral to social services.
7. Which of the following may perform Preventative Services?
- A. Licensed physical therapist
 - B. Licensed physical therapist assistant
 - C. Both A & B
 - D. None of the above
8. Physical therapists who receive a written request for medical records from a patient, must furnish the medical records within _____.
- A. 3 business days
 - B. 14 calendar days
 - C. 72 hours
 - D. a reasonable period of time
9. Which of the following is False?
- A. Physical therapists may routinely waive insurance plan deductibles and co-payments in order to induce or attract patients.
 - B. Physical therapy licensees who are convicted of a felony must notify the Georgia State Board of Physical Therapy within 10 days of the conviction.
 - C. Under HIPAA, health care providers are required to give patients a clear written explanation of how the covered entity may use and disclose patient health information.
 - D. Violation of the HIPAA standards may result in both civil and criminal penalties
10. Which of the following is NOT generally considered to be a required element of Informed Consent?
- A. Discussion of consequences of non-treatment
 - B. Consensus of family members
 - C. Assessment of patient understanding
 - D. Acceptance of the intervention by the patient (or legal custodian)