

ETHICS AND JURISPRUDENCE WISCONSIN PHYSICAL THERAPY

GOALS AND OBJECTIVES

COURSE DESCRIPTION

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

COURSE RATIONALE

This course was developed to educate, promote and facilitate ethical and legal behavior by Wisconsin licensed physical therapist and physical therapist assistants.

COURSE GOALS AND OBJECTIVES

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

1. define the meaning of Ethics and explain the various theories that promote ethical behavior.
2. apply a systemic approach to ethical decision-making.
3. understand all of the rights and responsibilities of physical therapy licensure as defined by the Wisconsin Physical Therapy Practice Act (Chapter 448, Subchapter III) and the Wisconsin Rules Governing the Practice of Physical Therapy
4. evaluate their current physical therapy practices to ensure compliance with all relevant Wisconsin laws and rules
5. understand the principles of the APTA’s Code of Ethics and Guide for Professional Conduct
6. incorporate the principles of the APTA’s Code of Ethics and Guide for Professional conduct into their professional practice activities
7. understand patients’ rights relating to privacy of information as defined by the Federal HIPAA statutes
8. analyze and interpret clinical situations to determine appropriate professional ethical behavior.

COURSE INSTRUCTOR

Michael Niss, DPT

METHODS OF INSTRUCTION

Home study course available via internet or written correspondence.

CRITERIA FOR ISSUANCE OF CONTINUING EDUCATION CREDITS

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

DETERMINATION OF CONTACT HOURS

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

Why Ethics are Important

Ethics are important on several levels.

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

Ethics vs. Morals

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

Ethical Questions

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

ETHICS THEORIES

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

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Utilitarianism

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

Social Contract Theory

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

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

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

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veil of ignorance which blinds them to the specific details of their selves, who they are, what their rational plans of life are, what their condition of life is. All the persons in the original position behind the veil of ignorance know is general information about life itself. Not knowing the specifics of their conditions, persons then can deliberate about the principles which will govern their society. Rawls believes that all rational self-interested persons will come to the same two general principles, the principles of justice: (1) that all persons should have the same rights and liberties compatible with the rights and liberties of others; (2) that whatever social and economic inequalities there are should be the advantage of those who may be disadvantaged by them, and that all positions and offices should be available to everyone.

Deontological or Duty Theory

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

Ethical Intuitionism

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

Ethical Egoism

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

Natural Law Theory

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

Virtue Ethics

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

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

Beneficence: the duty to do good.

Confidentiality: the duty to respect privacy of information.

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

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

Nonmaleficence: the duty to cause no harm.

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

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

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

Veracity: the duty to tell the truth.

HOW TO MAKE RIGHT DECISIONS

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

1. Is it legal?

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

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

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

2. Is it ethical?

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

3. Is it fair?

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

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

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

Chapter 448, Subchapter III Wisconsin Statutes - Abridged (Wisconsin Physical Therapy Statutes)

448.50 Definitions.

448.50(1r)

"Diagnosis" means a judgment that is made after examining the neuromusculoskeletal system or evaluating or studying its symptoms and that

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utilizes the techniques and science of physical therapy for the purpose of establishing a plan of therapeutic intervention, but does not include a chiropractic or medical diagnosis.

448.50(3)

"Physical therapist" means an individual who has been graduated from a school of physical therapy and holds a license to practice physical therapy granted by the affiliated credentialing board.

448.50(3m)

"Physical therapist assistant" means an individual who holds a license as a physical therapist assistant granted by the affiliated credentialing board.

448.50(4)(a)

(a) "Physical therapy" means any of the following:

1. Examining, evaluating, or testing individuals with mechanical, physiological, or developmental impairments, functional limitations related to physical movement and mobility, disabilities, or other movement-related health conditions, in order to determine a diagnosis, prognosis, or plan of therapeutic intervention or to assess the ongoing effects of intervention. In this subdivision, "testing" means using standardized methods or techniques for gathering data about a patient.
2. Alleviating impairments or functional limitations by instructing patients or designing, implementing, or modifying therapeutic interventions.
3. Reducing the risk of injury, impairment, functional limitation, or disability, including by promoting or maintaining fitness, health, or quality of life in all age populations.
4. Engaging in administration, consultation, or research

448.50(4)(b)

(b) "Physical therapy" does not include using roentgen rays or radium for any purpose, using electricity for surgical purposes, including cauterization, or prescribing drugs or devices.

448.50(5)

"Sexual misconduct with a patient" means any of the following:

- (a) Engaging in or soliciting a consensual or nonconsensual sexual relationship with a patient.
- (b) Making sexual advances toward, requesting sexual favors from, or engaging in other verbal conduct or physical contact of a sexual nature with a patient.
- (c) Intentionally viewing a completely or partially disrobed patient during the course of treatment if the viewing is not related to diagnosis or treatment.

448.50(6)

"Therapeutic intervention" means the purposeful and skilled interaction between a physical therapist, patient, and, if appropriate, individuals involved in the patient's care, using physical therapy procedures or techniques that are intended

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to produce changes in the patient's condition and that are consistent with diagnosis and prognosis.

448.50 – ANNOT.

Physical therapists and massage therapists are not prohibited from performing the activities that are within their respective scopes of practice, even if those activities extend in some degree into the field of chiropractic science. OAG 1-01.

448.51 License required.

(1) No person may practice physical therapy unless the person is licensed as a physical therapist under this subchapter.

(1e) No person may designate himself or herself as a physical therapist or use or assume the title “physical therapist,” “physiotherapist,” “physical therapy technician,” “licensed physical therapist,” “registered physical therapist,” “master of physical therapy,” “master of science in physical therapy,” or “doctorate in physical therapy,” or append to the person’s name the letters “P.T.,” “P.T.T.,” “L.P.T.,” “R.P.T.,” “M.P.T.,” “M.S.P.T.,” or “D.P.T.,” or any other title, letters, or designation that represents or may tend to represent the person as a physical therapist, unless the person is licensed as a physical therapist under this subchapter.

(1s) No person may designate himself or herself as a physical therapist assistant, use or assume the title “physical therapist assistant,” or append to the person’s name the letters “P.T.A.” or any other title, letters, or designation that represents or may tend to represent the person as a physical therapist assistant unless the person is licensed as a physical therapist assistant under this subchapter.

(a) In this subsection, “advertisement” includes advertisements that appear on outdoor signs, in print or electronic media, and in material mailed to a person other than a patient, client, or prospective patient or client who has requested the material.

(b) No person may claim to render physical therapy or physiotherapy services unless the person is licensed as a physical therapist under this subchapter.

448.52 Applicability.

(1m) A license is not required under this subchapter for any of the following, if the person does not claim to render physical therapy or physiotherapy services:

(a) Any person lawfully practicing within the scope of a license, permit, registration or certification granted by this state or the federal government.

(b) Any person assisting a physical therapist in practice under the direct, on-premises supervision of the physical therapist.

(c) A physical therapy student assisting a physical therapist in the practice of physical therapy or a physical therapist assistant student assisting a physical therapist in performing physical therapy procedures and related tasks, if the

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assistance is within the scope of the student's education or training.

(d) A physical therapist who is licensed to practice physical therapy in another state or country and is providing a consultation or demonstration with a physical therapist who is licensed under this subchapter.

(2m) A license is not required under this subchapter for any of the following:

(a) Except as provided in par. (b), a chiropractor licensed under ch. 446 claiming to render physical therapy, if the physical therapy is provided by a physical therapist employed by the chiropractor.

(b) A chiropractor licensed under ch. 446 claiming to render physical therapy modality services.

448.522 Manipulation services. A physical therapist may not claim that any manipulation service that he or she provides is in any manner a chiropractic adjustment that is employed to correct a spinal subluxation.

448.527 Code of ethics. The affiliated credentialing board shall promulgate rules establishing a code of ethics governing the professional conduct of physical therapists and physical therapist assistants.

448.53 Licensure of physical therapists.

(1) The affiliated credentialing board shall grant a license as a physical therapist to a person who does all of the following:

(a) Submits an application for the license to the department on a form provided by the department.

(b) Pays the fee specified in s. 440.05 (1)

(c) Submits evidence satisfactory to the affiliated credentialing board that the applicant does not have an arrest or conviction record.

(d) Submits evidence satisfactory to the affiliated credentialing board that the applicant is a graduate of a school of physical therapy approved by the affiliated credentialing board, unless the affiliated credentialing board waives this requirement under sub. (3).

448.535 Licensure of physical therapist assistants.

(1) The affiliated credentialing board shall grant a license as a physical therapist assistant to a person who does all of the following:

(a) Submits an application for the license to the department on a form provided by the department.

(b) Pays the fee specified in s. 440.05 (1).

(c) Submits evidence satisfactory to the affiliated credentialing board that the applicant does not have an arrest or conviction record.

(d) Submits evidence satisfactory to the affiliated credentialing board that the applicant is a graduate of a physical therapist assistant educational program accredited by an agency that is approved by the affiliated credentialing board.

(e) Passes an examination under s. 448.54.

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(2) The affiliated credentialing board may waive a requirement under sub. (1) (d) or (e), or both, for an applicant who establishes to the satisfaction of the affiliated credentialing board that he or she is licensed as a physical therapist assistant by another licensing jurisdiction in the United States. The affiliated credentialing board shall promulgate rules for granting a waiver under this subsection. The rules may require an applicant to satisfy additional requirements as a condition for granting a waiver.

448.54 Examination.

(1) The affiliated credentialing board shall conduct or arrange for examinations for physical therapist and physical therapist assistant licensure at least semiannually and at times and places determined by the affiliated credentialing board.

(2)(a) Except as provided in sub. (3) examinations for physical therapist licensure shall consist of written or oral tests, or both, requiring applicants to demonstrate minimum competency in subjects substantially related to the practice of physical therapy.

(b) Examinations for physical therapist assistant licensure shall consist of written or oral tests, or both, requiring applicants to demonstrate minimum competency in the technical application of physical therapy services.

(3) Notwithstanding s. 448.53 (1) (f), the affiliated credentialing board may not require an applicant for physical therapist licensure to take an oral examination or an examination to test proficiency in the English language for the sole reason that the applicant was educated at a physical therapy school that is not in the United States if the applicant establishes, to the satisfaction of the affiliated credentialing board, that he or she satisfies the requirements under s. 448.53 (3).

448.55 Issuance of license; expiration and renewal.

(1) The department shall issue a certificate of licensure to each person who is licensed under this subchapter.

(2) The renewal dates for licenses granted under this subchapter, other than temporary licenses granted under rules promulgated under s. 448.53 (2), are specified under s. 440.08 (2) (a). Renewal applications shall be submitted to the department on a form provided by the department and shall include the renewal fee specified in s. 440.08 (2) (a) and proof of compliance with the requirements established in any rules promulgated under sub. (3).

(3) The affiliated credentialing board shall promulgate rules that require an applicant for renewal of a license to demonstrate continued competence as a physical therapist or physical therapist assistant.

448.56 Practice requirements.

(1) Written referral. Except as provided in this subsection and s. 448.52, a person may practice physical therapy only upon the written referral of a physician, chiropractor, dentist or podiatrist. Written referral is not required if a physical therapist provides services in schools to children with disabilities, as defined in s. 115.76 (5), provides services as part of a home health care agency; provides services to a patient in a nursing home pursuant to the patient's plan of care; provides services related to athletic activities, conditioning or injury prevention; or provides services to an individual for a previously diagnosed medical condition after informing the individual's physician, chiropractor, dentist or podiatrist who made the diagnosis. The affiliated credentialing board may promulgate rules establishing additional services that are excepted from the written referral requirements of this subsection.

(1m)(a) Duty to refer.

(a) A physical therapist shall refer a patient to an appropriate health care practitioner if the physical therapist has reasonable cause to believe that symptoms or conditions are present that require services beyond the scope of the practice of physical therapy.

(b) The affiliated credentialing board shall promulgate rules establishing the requirements that a physical therapist must satisfy if a physician, chiropractor, dentist, or podiatrist makes a written referral under sub. (1). The purpose of the rules shall be to ensure continuity of care between the physical therapist and the health care practitioner.

(2) Fee splitting. No licensee may give or receive, directly or indirectly, to or from any other person any fee, commission, rebate or other form of compensation or anything of value for sending, referring or otherwise inducing a person to communicate with a licensee in a professional capacity, or for any professional services not actually rendered personally by the licensee or at the licensee's direction.

(3) Billing by professional partnerships and corporations. If 2 or more physical therapists have entered into a bona fide partnership or have formed a service corporation for the practice of physical therapy, the partnership or corporation may not render a single bill for physical therapy services provided in the name of the partnership or corporation unless each physical therapist who provided services that are identified on the bill is identified on the bill as having rendered those services.

(4) Responsibility. A physical therapist is responsible for managing all aspects of the physical therapy care of each patient under his or her care.

(5) Patient records. A physical therapist shall create and maintain a patient record for every patient the physical therapist examines or treats.

(6) Physical therapist assistants. A physical therapist assistant may assist a physical therapist in the practice of physical therapy if the physical therapist provides direct or general supervision of the physical therapist assistant. The affiliated credentialing board shall promulgate rules defining “direct or general supervision” for purposes of this subsection. Nothing in this subsection interferes with delegation authority under any other provision of this chapter.

448.565 Complaints. The affiliated credentialing board shall promulgate rules establishing procedures and requirements for filing complaints against licensees and shall publicize the procedures and requirements.

448.567 Performance audits. The affiliated credentialing board shall promulgate rules that require the affiliated credentialing board on a periodic basis to conduct performance self-audits of its activities under this subchapter.

448.57 Disciplinary proceedings and actions.

(1) Subject to the rules promulgated under s. 440.03 (1), the affiliated credentialing board may make investigations and conduct hearings to determine whether a violation of this subchapter or any rule promulgated under this subchapter has occurred.

(2) Subject to the rules promulgated under s. 440.03 (1), the affiliated credentialing board may reprimand a licensee or may deny, limit, suspend or revoke a license granted under this subchapter if it finds that the applicant or licensee has done any of the following:

- (a) Made a material misstatement in an application for a license or for renewal of a license.
- (am) Interfered with an investigation or disciplinary proceeding by using threats, harassment, or intentional misrepresentation of facts.
- (b) Been convicted of an offense the circumstances of which substantially relate to the practice of physical therapy or assisting in the practice of physical therapy.
- (bm) Been adjudicated mentally incompetent by a court.
- (c) Advertised in a manner that is false, deceptive or misleading.
- (d) Advertised, practiced or attempted to practice under another’s name.
- (e) Practiced or assisted in the practice of physical therapy while the applicant’s or licensee’s ability to practice or assist was impaired by alcohol or other drugs.
- (f) Engaged in unprofessional or unethical conduct in violation of the code of ethics established in the rules.
- (fm) Engaged in sexual misconduct with a patient.
- (g) Engaged in conduct while practicing or assisting in the practice of physical therapy which evidences a lack of knowledge or ability to apply professional principles or skills.
- (h) Violated this subchapter or any rule promulgated under this subchapter.

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(3)(a) A licensee may voluntarily surrender his or her license to the affiliated credentialing board, which may refuse to accept the surrender if the affiliated credentialing board has received allegations of unprofessional conduct against the licensee. The affiliated credentialing board may negotiate stipulations in consideration for accepting the surrender of licenses.

(b) The affiliated credentialing board may restore a license that has been voluntarily surrendered under par. (a) on such terms and conditions as it considers appropriate.

(4) The affiliated credentialing board shall prepare and disseminate to the public an annual report that describes final disciplinary action taken against licensees during the preceding year.

(5) The affiliated credentialing board may report final disciplinary action taken against a licensee to any national database that includes information about disciplinary action taken against health care professionals.

448.58 Injunctive relief. If the affiliated credentialing board has reason to believe that any person is violating this subchapter or any rule promulgated under this subchapter, the affiliated credentialing board, the department, the attorney general or the district attorney of the proper county may investigate and may, in addition to any other remedies, bring an action in the name and on behalf of this state to enjoin the person from the violation.

448.59 Penalties. Any person who violates this subchapter or any rule promulgated under this subchapter may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

Wisconsin Administrative Code Board of Physical Therapy Rules

PT 1.01 Authority and purpose. The rules in chs. PT 1 to 9 are adopted by the physical therapists affiliated credentialing board and govern the issuance of licenses to physical therapists, the issuance of licenses to physical therapist assistants, the referral for physical therapy services, unprofessional conduct under, biennial license renewal, continuing education requirements, continuity of care requirements, and conduct of board self-audits.

PT 1.02 Definitions.

(1) "Board" means the physical therapists affiliated credentialing board.

(2) "FSBPT" means the Federation of State Boards of Physical Therapy.

(3) "License" means any license, permit, certificate or registration issued by the board.

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(4) "Licensee" means any person validly possessing any license granted and issued to that person by the board.

(6) "Unlicensed personnel" means a person other than a physical therapist or physical therapist assistant who performs patient related tasks consistent with the unlicensed personnel's education, training and expertise under the direct on-premises supervision of the physical therapist.

PT 1.03 Applications and credentials.

(1) Every person applying for any class of license to provide physical therapy services shall make application on forms provided by the board, and shall submit to the board all of the following:

(a) A completed and verified application form.

(c) Verified documentary evidence of graduation from a school of physical therapy or a physical therapist assistant educational program approved by the board.

(d) In the case of a graduate of a foreign school of physical therapy or physical therapist assistant educational program, verification of educational equivalency to a board-approved school of physical therapy or physical therapist assistant educational program, the verification shall be obtained from a board-approved foreign graduate evaluation service, based upon submission to the evaluation service of the following material:

1. A verified copy of transcripts from the schools from which secondary education was obtained.
2. A verified copy of the diploma from the school or educational program at which professional physical therapy or physical therapist assistant training was completed.
3. A record of the number of class hours spent in each subject, for both pre-professional and professional courses. For subjects which include laboratory and discussion sections, the hours must be described in hours per lecture, hours per laboratory and hours per discussion per week. Information must include whether subjects have been taken at basic entry or advanced levels.
4. A syllabus which describes the material covered in each subject completed.

(2) If an applicant is a graduate of a school of physical therapy or a physical therapist assistant educational program not approved by the board, the board shall determine whether the applicant's educational training is equivalent to that specified in sub. (1) (c). In lieu of its own evaluations, the board may use evaluations prepared by a board-approved evaluation service. The cost of an evaluation shall be paid by the applicant.

(3) The board may waive the requirement under sub. (1) (c). for an applicant who establishes, to the satisfaction of the board, all of the following:

(a) That he or she is a graduate of a physical therapy school or a physical therapist assistant educational program.

(b) That he or she is licensed as a physical therapist or physical therapist assistant by another licensing jurisdiction in the United States.

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(c) That the jurisdiction in which he or she is licensed required the licensee to be a graduate of a school or educational program approved by the licensing jurisdiction or of a school or educational program that the licensing jurisdiction evaluated for educational equivalency.

(d) That he or she has actively practiced as a physical therapist or physical therapist assistant, under the license issued by the other licensing jurisdiction in the United States, for at least 3 years immediately preceding the date of his or her application.

PT 1.04 Application deadline and fees. The completed application and all required documents must be received by the board at its office not less than 30 days prior to the date of the examination. The required fees specified in s. 440.05 (1), Stats., shall accompany the application.

(1) All applicants shall complete written examinations. In addition, an applicant may be required to complete an oral examination if the applicant:

(a) Has a medical condition which in any way impairs or limits the applicant's ability to practice physical therapy with reasonable skill and safety.

(b) Uses chemical substances so as to impair in any way the applicant's ability to practice physical therapy with reasonable skill and safety.

(c) Has been diagnosed as suffering from pedophilia, exhibitionism or voyeurism.

(d) Has within the past 2 years engaged in the illegal use of controlled substances.

(e) Has been subject to adverse formal action during the course of physical therapy education, postgraduate training, hospital practice, or other physical therapy employment.

(f) Has been disciplined or had licensure denied by a licensing or regulatory authority in Wisconsin or another jurisdiction.

(g) Has been convicted of a crime the circumstances of which substantially relate to the practice of physical therapy.

(h) Has not practiced as a physical therapist or physical therapist assistant for a period of 3 years prior to application, unless the applicant has been graduated from a school of physical therapy or a physical therapist assistant educational program within that period.

(i) Has been graduated from a physical therapy school or a physical therapist assistant educational program not approved by the board.

(2) An application filed under s. PT 1.03 shall be reviewed by an application review panel consisting of at least 2 board members designated by the chairperson of the board. The panel shall determine whether the applicant is eligible for a regular license without completing an oral examination.

(3) All examinations shall be conducted in the English language.

(4) Where both written and oral examinations are required, they shall be scored

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separately and the applicant shall achieve a passing grade on both examinations to qualify for a license.

(5) The board shall notify each applicant found eligible for examination of the time and place scheduled for that applicant's examination. Failure of an applicant to appear for examination as scheduled will void the applicant's examination application and require the applicant to reapply for examination unless prior scheduling arrangements have been made with the board by the applicant.

(6)

(a) The score required to pass each written physical therapy or physical therapist assistant examination shall be based on the board's determination of the level of examination performance required for minimum acceptable competence in the profession and on the reliability of the examination. The passing grade shall be established prior to giving the examination.

(b) The passing scores for the national physical therapy examination and the national physical therapist assistant examination are those scores recommended by the Federation of State Boards of Physical Therapy.

(c) To pass the examination on statutes and rules, the applicant shall receive a score determined by the board to represent minimum competence to practice after consultation with subject matter experts who have received a representative sample of the examination questions and available candidate performance statistics.

(7) Members of the board shall conduct oral examinations of each candidate and are scored as pass or fail.

(8) Any applicant who is a graduate of a school for physical therapists or an educational program for physical therapist assistants in which English is not the primary language of communication shall take and pass each of the following in order to qualify for a license:

(a) The test of English as a foreign language as administered by the educational testing service.

(b) The test of written English as administered by the educational testing service.

(c) The test of spoken English as administered by the educational testing service.

PT 2.02 Conduct of examinations. At the start of the examinations, applicants shall be provided with the rules of conduct to be followed during the course of the examinations. Any violation of these rules of conduct by any applicant may be cause for the board to withhold the applicant's grade and to find after a hearing that the applicant has failed the examination.

PT 2.03 Failure and reexamination. An applicant who fails to achieve passing grades on the examinations required under this chapter may apply for

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reexamination on forms provided by the board. For each reexamination, the application shall be accompanied by the reexamination fee. If an applicant for reexamination fails to achieve passing grades on the second reexamination, the applicant may not be admitted to further examination until the applicant reapplies for licensure and presents to the board evidence of further professional training or education as the board may consider appropriate in the applicant's specific case.

PT 2.04 Examination waiver. An applicant for a license to practice as a physical therapist assistant who applies prior to April 1, 2004, shall not be required to complete the national physical therapist assistant examination if the applicant does all of the following:

- (1) Pays the fee specified in s. 440.05 (1), Stats.
- (2) Submits evidence satisfactory to the board that the applicant does not have an arrest or conviction record.
- (3) Provides evidence satisfactory to the board that the applicant has graduated from an accredited physical therapist assistant educational program.
- (4) Provides evidence satisfactory to the board that during at least 2 years of the 5 year period immediately preceding April 26, 2002, the applicant was a physical therapist assistant, as defined by s. 448.52 (3), Stats., assisting a physical therapist in practice under the general supervision of a physical therapist as specified in s. PT 5.01.
- (5) Passes an examination administered by the board on state laws and administrative rules relating to physical therapy.
- (6) Submits letters of recommendation from 2 physical therapists licensed by the board who have personal knowledge of the applicant's activities in assisting a physical therapist in practice.

PT 3.01 Temporary license to practice under supervision.

- (1) An applicant for a regular license to practice as a physical therapist or physical therapist assistant who is a graduate of an approved school of physical therapy or a physical therapist assistant educational program and has applied to take the national physical therapist examination or the national physical therapist assistant examination or has taken the national physical therapist examination and is awaiting results and is not required to take an oral examination, may apply to the board for a temporary license to practice as a physical therapist or physical therapist assistant under supervision. The applications and required documents for a regular license and for a temporary license may be reviewed by 2 members of the board, and upon the finding by the 2 members that the applicant is qualified for admission to examination for a regular license to practice as a physical therapist or physical therapist assistant, the board, acting through the 2 members, may issue a temporary license to practice as a physical therapist or physical therapist assistant under supervision to the applicant.
- (2) The required fees specified in s. 440.05 (6), Stats., shall accompany the application for a temporary license to practice under supervision.
- (3) The holder of a temporary license to practice physical therapy under

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supervision may practice physical therapy as defined in s. 448.50 (4), Stats., providing that the entire practice is under the supervision of a person validly holding a regular license as a physical therapist. The supervision shall be direct, immediate, and on premises.

(4) The holder of a temporary license to practice as a physical therapist assistant under supervision may provide physical therapy services as defined in s. 448.50 (4), Stats., providing that the entire practice is under the supervision of a person validly holding a regular license as a physical therapist. The supervision shall be direct, immediate, and on premises. No physical therapist assistant holding a temporary license may provide physical therapy services when the supervising physical therapist is not immediately available to assist.

(5) The duration of a temporary license to practice physical therapy under supervision granted under this section shall be for a period of 3 months or until the holder receives failing examination results, whichever is shorter.

(6) A physical therapist may supervise no more than a combined total of 4 physical therapists and physical therapist assistants who hold temporary licenses. This number shall be reduced by the number of physical therapist assistants and physical therapy aides being supervised by the physical therapist under s. PT 5.02 (2) (k).

(7) A temporary license to practice as a physical therapist or physical therapist assistant under supervision may not be renewed.

PT 4.01 Locum tenens license.

(1) A person who holds a valid license to practice physical therapy issued by another licensing jurisdiction of the United States may apply to the board for a locum tenens license to practice physical therapy and shall submit to the board all of the following:

- (a) A completed and verified application form.
- (b) A letter of recommendation from a physician or supervisor or present employer stating the applicant's professional capabilities.
- (c) A verified photostatic copy of a license to practice physical therapy issued to the applicant by another licensing jurisdiction of the United States.
- (d) A letter from a physical therapist licensed in this state requesting the applicant's services, or a letter from an organization or facility in this state requesting the applicant's services.
- (e) The required fees specified in s. 440.05 (6), Stats.

(2) The application and documentary evidence submitted by the applicant shall be reviewed by a member of the board, and upon the finding of the member that the applicant is qualified, the board, acting through the member, may issue a locum tenens license to practice physical therapy to the applicant.

(3) The holder of a locum tenens license to practice physical therapy may practice physical therapy as defined in s. 448.56 (1), Stats., providing the practice is confined to the geographical area for which the license is issued.

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(4) A locum tenens license to practice physical therapy shall expire 90 days from the date of its issuance. For cause shown to its satisfaction, the board, acting through a member of the board, may renew the locum tenens license for additional periods of 90 days each, but the license may not be renewed within 12 months of the date of its original issuance, nor again renewed within 12 months of the date of any subsequent renewal.

PT 5.01 Practice and supervision of physical therapist assistants.

(1) A physical therapist assistant, as defined in s. 448.50 (3m), Stats., shall assist a physical therapist in the practice of physical therapy under the general supervision of a physical therapist.

(2) In providing general supervision, the physical therapist shall do all of the following:

- (a) Have primary responsibility for physical therapy care rendered by the physical therapist assistant.
- (b) Have direct face-to-face contact with the physical therapist assistant at least every 14 calendar days, unless the board approves another type of contact.
- (c) Remain accessible to telecommunications in the interim between direct contacts while the physical therapist assistant is providing patient care.
- (d) Establish a written policy and procedure for written and oral communication. This policy and procedure shall include a specific description of the supervisory activities undertaken for the physical therapist assistant as well as a description of the manner by which the physical therapist shall manage all aspects of patient care. The amount of supervision shall be appropriate to the setting and the services provided.
- (e) Provide initial patient examination, evaluation and interpretation of referrals and create the initial patient record for every patient the physical therapist treats.
- (f) Develop and revise as appropriate a written patient treatment plan and program.
- (g) Delegate appropriate portions of the treatment plan and program to the physical therapist assistant consistent with the physical therapist assistant's education, training and experience.
- (h) Provide on-site assessment and reevaluation of each patient's treatment at a minimum of one time per calendar month or every tenth treatment day, whichever is sooner, and adjust the treatment plan as appropriate.
- (i) Coordinate discharge plan decisions and the final assessment with the physical therapist assistant.
- (j) Limit the number of physical therapist assistants practicing under general supervision to a number appropriate to the setting in which physical therapy is administered, to ensure that all patients under the care of the physical therapist receive services that are consistent with accepted standards of care and consistent with all other requirements under this chapter. No physical therapist may at any time supervise more than 2 physical therapist assistants full-time equivalents practicing under general supervision.

PT 5.02 Supervision of unlicensed personnel.

(1) A physical therapist shall provide direct on-premises supervision of unlicensed personnel at all times. A physical therapist may not direct unlicensed personnel to perform tasks which require the decision making or problem solving skills of a physical therapist, including but not limited to patient examination, evaluation, diagnosis, or determination of therapeutic intervention.

(2) In providing direct on-premises supervision, the physical therapist shall do all of the following:

(a) Retain full professional responsibility for patient related tasks performed.

(b) Be available at all times for direction and supervision with the person performing related tasks.

(c) Evaluate the effectiveness of patient related tasks performed by those under direct supervision by assessing persons for whom tasks have been performed prior to and following performance of the tasks.

(d) Routinely evaluate the effectiveness of patient related tasks performed by those under direct supervision by observing and monitoring persons receiving such tasks.

(e) Determine the competence of personnel to perform assigned tasks based upon his or her education, training and experience.

(f) Verify the competence of unlicensed personnel with written documentation of continued competence in the assigned tasks.

(g) Perform initial patient examination, evaluation, diagnosis and prognosis, interpret referrals, develop and revise as appropriate a written patient treatment plan and program for each patient and create and maintain a patient record for every patient the physical therapist treats.

(h) Provide interpretation of objective tests, measurements and other data in developing and revising a physical therapy diagnosis, assessment and treatment plan.

(i) Direct unlicensed personnel to provide appropriate patient related tasks consistent with the education, training, and experience of the person supervised. Direction should list specific patient related tasks, including dosage, magnitude, repetitions, settings, length of time, and any other parameters necessary for the performance of the patient related tasks.

(j) Limit the number of unlicensed personnel providing patient related tasks under direct supervision to a number appropriate to the setting in which physical therapy is administered, to ensure that all patients under the care of the physical therapist receive services that are consistent with accepted standards of care and consistent with all other requirements under this chapter.

(k) The total number of physical therapist assistants providing physical therapy services and unlicensed personnel performing patient related tasks under supervision may not exceed a combined total of 4. This number shall be reduced by the number of physical therapists and physical therapist assistants holding temporary licenses who are being supervised under s. PT 3.01 (6).

PT 6.01 Referrals.

(1) In addition to the services excepted from written referral under s. 448.56, Stats., a written referral is not required to provide the following services, related to the work, home, leisure, recreational and educational environments:

- (a) Conditioning.
- (b) Injury prevention and application of biomechanics.
- (c) Treatment of musculoskeletal injuries with the exception of acute fractures or soft tissue avulsions.

(2) A physical therapist providing physical therapy services pursuant to a referral under s. 448.56 (1), Stats., shall communicate with the referring physician, chiropractor, dentist or podiatrist as necessary to ensure continuity of care.

(3) A physical therapist providing physical therapy services to a patient shall refer the patient to a physician, chiropractor, dentist, podiatrist or other health care practitioner under s. 448.56 (1m), Stats., to receive required health care services which are beyond the scope of practice of physical therapy.

PT 7.01 Authority and purpose. The definitions of this chapter are adopted by the board pursuant to the authority delegated by ss. 15.085 (5) (b) and 448.527, Stats., to establish the standards of ethical conduct by physical therapists and physical therapist assistants.

PT 7.02 Definitions. The term "unprofessional conduct" is defined to mean and include but not be limited to the following, or aiding or abetting the same:

- (1) Violating or attempting to violate s. 448.57 (2) (a) to (g), Stats., or any other applicable provision or term of ch. 448, Stats., or of any valid rule of the board.
- (2) Violating or attempting to violate any term, provision or condition of any order of the board.
- (3) Knowingly making or presenting or causing to be made or presented any false, fraudulent or forged statement, writing, certificate, diploma, or other thing in connection with any application for a license.
- (4) Practicing fraud, forgery, deception, collusion or conspiracy in connection with any examination for a license.
- (5) Giving, selling, buying, bartering or attempting to give, sell, buy or barter any license.
- (6) Engaging or attempting to engage in practice under any license under any given name or surname other than that under which originally licensed or registered to practice in this or any other state. This subsection does not apply to a change of name resulting from marriage, divorce or order by a court of record.
- (7) Engaging or attempting to engage in the unlawful practice of physical therapy.
- (8) Any practice or conduct which tends to constitute a danger to the health, welfare or safety of a patient or the public.
- (9) Practicing or attempting to practice under any license when unable to do so

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with reasonable skill and safety to patients.

(10) Practicing or attempting to practice under any license beyond the scope of that license.

(11) Offering, undertaking or agreeing to treat or cure a disease or condition by a secret means, method, device or instrumentality; or refusing to divulge to the board upon demand the means, method, device or instrumentality used in the treatment of a disease or condition.

(12) Representing that a manifestly incurable disease or condition can be or will be permanently cured; or that a curable disease or condition can be cured within a stated time, if it is not the fact.

(13) Knowingly making any false statement, written or oral, in practicing under any license, with fraudulent intent; or obtaining or attempting to obtain any professional fee or compensation of any form by fraud or deceit.

(14) Willfully divulging a privileged communication or confidence entrusted by a patient or deficiencies in the character of patients observed in the course of professional attendance, unless lawfully required to do so.

(15) Engaging in uninvited, in-person solicitation of actual or potential patients who, because of their particular circumstances, are vulnerable to undue influence.

(16) Engaging in false, misleading or deceptive advertising.

(17) Having a license, certificate, permit, registration or other practice privilege granted by another state or by any agency of the federal government to practice physical therapy limited, restricted, suspended or revoked, or having been subject to other disciplinary action by the state licensing authority or by any agency of the federal government.

(18) Conviction of any crime which may relate to practice under any license, or of violation of any federal or state law regulating the possession, distribution or use of controlled substances as defined in s. 961.01 (4), Stats. A certified copy of a judgment of a court of record showing the conviction, within this state or without, shall be presumptive evidence of the conviction.

(19) Engaging in inappropriate sexual contact, exposure, gratification, or other sexual behavior with or in the presence of a patient. For the purposes of this subsection, an adult receiving treatment shall continue to be a patient until the time of final discharge from physical therapy.

(20) Failure to inform a patient or client of the costs, benefits and risks of viable physical therapy intervention and treatment alternatives.

(21) Failing to report to the board or to institutional supervisory personnel any violation of this chapter by a licensee.

PT 7.03 Complaints. Procedures and requirements for filing complaints with the board are set forth in ch. RL 2.

PT 7.04 Self-audits. The board shall biennially review and evaluate its performance in carrying out its responsibilities under this chapter and in other areas over which the board exercises its independent authority, as defined in s. 440.035, Stats.

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PT 8.01 Authority and purpose. The rules in this chapter are adopted by the board pursuant to the authority delegated by ss. 15.08 (5) (b), 227.11 (2) and 448.53, Stats., and govern biennial renewal of licensees of the board.

PT 8.02 Renewal required; method of renewal. Each licensee shall renew his or her license biennially with the department. On or before October 1 of each odd-numbered year the department shall mail to each licensee at his or her last known address as it appears in the records of the board an application form for renewal. Each licensee shall complete the application form and return it with the required fee to the department prior to the next succeeding November 1. The department shall notify the licensee within 30 business days of receipt of a completed renewal form whether the application for renewal is approved or denied.

PT 8.05 Requirements for reinstatement. A license shall expire if it is not renewed by November 1 of odd-numbered years. A licensee who allows the license to lapse may apply to the board for reinstatement of the license as follows:

- (1) If the licensee applies for renewal of the license less than 5 years after its expiration, the license shall be renewed upon payment of the renewal fee.
- (2) If the licensee applies for renewal of the license more than 5 years after its expiration, the board shall make inquiry as it finds necessary to determine whether the applicant is competent to practice under the license in this state, and shall impose any reasonable conditions on reinstatement of the license, including oral examination, as the board deems appropriate. All applicants under this paragraph shall be required to pass the open book examination on statutes and rules, which is the same examination given to initial applicants.

PT 9.01 Authority and purpose. The rules in this chapter are adopted by the board pursuant to the authority delegated by ss. 15.085 (5) (b), 227.11 (2) and 448.55 (3), Stats., and govern required biennial continuing education of licensees of the board.

PT 9.02 Definitions.

- (1) "Contact hour" means not less than 50 minutes a licensee spends in actual attendance at or completion of acceptable continuing education.
- (2) "Continuing education" means planned, organized learning activities designed to maintain, improve, or expand a licensee's knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.
- (4) "Licensee" means a person licensed to practice as a physical therapist or physical therapist assistant in this state.

PT 9.03 Continuing Education Requirements.

(1) Unless granted a postponement or waiver under sub. (8), every physical therapist shall complete at least 30 hours of board-approved continuing education in each biennial registration period, as specified in s. 448.55 (3), Stats. Four of the required 30 hours shall be in the area of ethics and jurisprudence.

(2) Unless granted a postponement or waiver under sub. (8), every physical therapist assistant shall complete at least 20 hours of board-approved continuing education in each biennial registration period, as specified in s. 448.55 (3), Stats. Four of the required 20 hours shall be in the area of ethics and jurisprudence.

(3) Continuing education hours may apply only to the registration period in which the hours are acquired. If a license has lapsed, the board may grant permission to apply continuing education hours acquired after lapse of the license to a previous biennial period of licensure during which required continuing education was not acquired. In no case may continuing education hours be applied to more than one biennial period.

(4) Unless granted a postponement or waiver under sub. (8), a licensee who fails to meet the continuing education requirements by the renewal deadline shall cease and desist from practice.

(5) During the time between initial licensure and commencement of a full 2-year licensure period new licensees shall not be required to meet continuing education requirements.

(6) Applicants from other states applying for a license to practice as a physical therapist under s. 448.53 (3), Stats., shall submit proof of completion of at least 30 hours of continuing education approved by the board within 2 years prior to application.

(7) Applicants from other states applying for a license to practice as a physical therapist assistant under s. 448.53 (3), Stats., shall submit proof of completion of at least 20 hours of continuing education approved by the board within 2 years prior to application.

(8) A licensee may apply to the board for a postponement or waiver of the requirements of this section on grounds of prolonged illness or disability, or on other grounds constituting extreme hardship. The board shall consider each application individually on its merits, and the board may grant a postponement, partial waiver or total waiver as deemed appropriate.

PT 9.04 Standards for Approval.

(1) To be approved for credit, a continuing education program shall meet all of the following criteria:

- (a) The program constitutes an organized program of learning which contributes directly to the professional competency of the licensee.
- (b) The program pertains to subject matters which integrally relate to the practice of the profession.
- (c) The program is conducted by individuals who have specialized education, training or experience by reason of which the individuals should be considered qualified concerning the subject matter of the activity or

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program.

(d) The program fulfills pre-established goals and objectives.

(e) The program provides proof of attendance by licensees.

(2) The continuing education activities described in table PT 9.04 qualify for continuing education hours.

TABLE PT 9.04	
ACTIVITY	CONTACT HOUR LIMITS
(a) Successful completion of relevant academic coursework.	No limit. [10 contact hours = one semester credit; 6.6 contact hours = quarter credit]
(b) Attendance at seminars, workshops, lectures, symposia, and professional conferences which are sponsored or approved by acceptable health-related or other organizations including the American Physical Therapy Association and the Wisconsin Physical Therapy Association.	No limit.
(c) Successful completion of a self-study course or courses offered via electronic or other means which are sponsored or approved by acceptable health-related or other organizations including the American Physical Therapy Association and the Wisconsin Physical Therapy Association.	No limit.
(d) Earning a clinical specialization from the American Board of Physical Therapy Specialties or other recognized clinical specialization certifying organizations.	Up to 12 contact hours for initial certification or for recertification.
(e) Authorship of a book about physical therapy or a related professional area.	Up to 12 contact hours for each book.
(f) Authorship of one or more chapters of a book about physical therapy or a related professional area.	Up to 6 contact hours for each chapter.
(g) Authorship of a presented scientific poster, scientific platform presentation, or published article.	Up to 6 contact hours for each poster, platform presentation, or refereed article.
(h) Presenting seminars, continuing education courses, workshops, lectures, or symposia which have been approved by recognized health-related organizations including the American Physical Therapy Association and the Wisconsin Physical Therapy Association. Note: No additional hours are given for subsequent presentations of the same content. Substantive course revisions may be counted but are limited to the extent of the revision.	No limit.
(i) Teaching in an academic course in physical therapy as a guest lecturer. Note: No additional hours are given for subsequent presentations of the same content. Substantive course revisions may be counted but are limited to the extent of the revision.	No limit. [10 contact hours = one semester credit; 6.6 contact hours = one quarter credit]
(j) Teaching in an academic course in physical therapy. Note: No additional hours are given for subsequent presentations of the same content. Substantive course revisions may be counted but are not limited to the extent of the revision.	No limit. [10 contact hours = one semester credit; 6.6 contact hours = one quarter credit]
(k) Successful completion in a clinical residency program credentialed by the American Physical Therapy Association or other recognized credentialing organization.	No limit.
(l) Attending employer-provided continuing education, including video and non-interactive on-line courses.	Up to 15 contact hours for physical therapists. Up to 10 contact hours for physical therapist assistants.
(m) Authoring an article in a non-refereed publication.	Up to 5 contact hours.
(n) Developing alternative media materials, including computer software, programs, and video instructional material.	1 contact hour per product. Up to 5 contact hours.
(o) Serving as a clinical instructor for internships with an accredited physical therapist or physical therapist assistant educational program.	Up to 15 contact hours for physical therapists. Up to 10 contact hours for physical therapist assistants.
(p) Serving as a supervisor for students fulfilling clinical observation requirements.	1 contact hour per contact hour with students, up to 5 contact hours.
(q) Participating in a physical therapy study group of 2 or more physical therapists or physical therapist assistants or in an interdisciplinary study group of members of at least 2 disciplines meeting on a topic relevant to the participants' work.	Up to 2 contact hours per study group.
(s) Attending a scientific poster session, lecture panel, or a symposium.	Up to 2 contact hours.
(t) Serving as a delegate to the American Physical Therapy Association House of Delegates, on a professional committee, board, or task force.	Up to 5 contact hours.

(3) The following activities shall not be awarded continuing activity credit:

(a) Meetings for the purpose of policy decisions.

(b) Non-educational meetings at annual association, chapter or organization

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meetings.

(c) Entertainment or recreational meetings or activities.

(d) Visiting exhibits.

PT 9.05 Proof of attendance at continuing education programs. Applicants for renewal shall be required to certify their attendance at required continuing education programs. The board may conduct a random audit of all licensees on a biennial basis for compliance with continuing education requirements, and shall audit any licensee who is under investigation by the board for alleged misconduct.

APTA CODE OF ETHICS

Preamble

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

Principle 1

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

Principle 2

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

Principle 3

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

Principle 4

A physical therapist shall exercise sound professional judgment.

Principle 5

A physical therapist shall achieve and maintain professional competence.

Principle 6

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

Principle 7

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

Principle 8

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

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Principle 9

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

Principle 10

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

Principle 11

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

THE GUIDE FOR PROFESSIONAL CONDUCT

Purpose

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

Guide for Conduct of the Physical Therapist

Principle 1

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

1.1 Attitudes of a Physical Therapist

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

Principle 2

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

2.1 Patient/Physical Therapist Relationship

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

B. A physical therapist shall not exploit any aspect of the physical therapist/patient relationship.

C. A physical therapist shall not engage in any sexual relationship or activity, whether consensual or nonconsensual, with any patient while a physical therapist/patient relationship exists.

D. The physical therapist shall create an environment that encourages an open dialogue with the patient/client.

E. In the event the physical therapist or patient terminates the physical therapist/patient relationship while the patient continues to need physical therapy services, the physical therapist should take steps to transfer the care of the patient to another provider.

2.2 Truthfulness

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

2.3 Confidential Information

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

B. Information derived from peer review shall be held confidential by the reviewer unless the physical therapist who was reviewed consents to the release of the information.

C. A physical therapist may disclose information to appropriate authorities when it is necessary to protect the welfare of an individual or the community or when required by law. Such disclosure shall be in accordance with applicable law.

2.4 Patient Autonomy and Consent

A. A physical therapist shall not restrict patients' freedom to select their provider of physical therapy.

B. A physical therapist shall communicate to the patient/client the findings of his/her examination, evaluation, diagnosis, and prognosis.

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- C. A physical therapist shall collaborate with the patient/client to establish the goals of treatment and the plan of care.
- D. A physical therapist shall inform the patient/client of the benefits, costs, and substantial risks (if any) of the recommended intervention and treatment alternatives.
- E. A physical therapist shall respect the patient's/client's right to make decisions regarding the recommended plan of care, including consent, modification, or refusal.

Principle 3

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

3.1 Professional Practice

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

3.2 Just Laws and Regulations

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

3.3 Unjust Laws and Regulations

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

Principle 4

A physical therapist shall exercise sound professional judgment.

4.1 Professional Responsibility

- A. A physical therapist shall make professional judgments that are in the patient/client's best interests.
- B. Regardless of practice setting, a physical therapist has primary responsibility for the physical therapy care of a patient and shall make independent judgments regarding that care consistent with accepted professional standards. See Section 2.4.
- C. A physical therapist shall not provide physical therapy services to a patient/client while his/her ability to do so safely is impaired.
- D. A physical therapist shall exercise sound professional judgment based upon his/her knowledge, skill, education, training, and experience.

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E. Upon accepting a patient/client for physical therapy services, a physical therapist shall be responsible for: the examination, evaluation, and diagnosis of that individual; the prognosis and intervention; re-examination and modification of the plan of care; and the maintenance of adequate records, including progress reports. A physical therapist shall establish the plan of care and shall provide and/or supervise and direct the appropriate interventions. See Section 2.4.

F. If the diagnostic process reveals findings that are outside the scope of the physical therapist's knowledge, experience, or expertise, the physical therapist shall so inform the patient/client and refer to an appropriate practitioner.

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

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

4.2 Direction and Supervision

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

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

4.3 Practice Arrangements

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

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

4.4 Gifts and Other Consideration

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

Principle 5

A physical therapist shall achieve and maintain professional competence.

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5.1 Scope of Competence

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

5.2 Self-assessment

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

5.3 Professional Development

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

Principle 6

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

6.1 Professional Standards

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

6.2 Practice

A. A physical therapist shall achieve and maintain professional competence. See Section 5.

B. A physical therapist shall demonstrate his/her commitment to quality improvement by engaging in peer and utilization review and other self-assessment activities.

6.3 Professional Education

A. A physical therapist shall support high-quality education in academic and clinical settings.

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

6.4 Continuing Education

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

6.5 Research

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

Principle 7

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

7.1 Business and Employment Practices

- A. A physical therapist's business/employment practices shall be consistent with the ethical principles of the Association.
- B. A physical therapist shall never place her/his own financial interest above the welfare of individuals under his/her care.
- C. A physical therapist shall recognize that third-party payer contracts may limit, in one form or another, the provision of physical therapy services. Third-party limitations do not absolve the physical therapist from making sound professional judgments that are in the patient's best interest. A physical therapist shall avoid underutilization of physical therapy services.
- D. When a physical therapist's judgment is that a patient will receive negligible benefit from physical therapy services, the physical therapist shall not provide or continue to provide such services if the primary reason for doing so is to further the financial self-interest of the physical therapist or his/her employer. A physical therapist shall avoid overutilization of physical therapy services.
- E. Fees for physical therapy services should be reasonable for the service performed, considering the setting in which it is provided, practice costs in the geographic area, judgment of other organizations, and other relevant factors.
- F. A physical therapist shall not directly or indirectly request, receive, or participate in the dividing, transferring, assigning, or rebating of an unearned fee.

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G. A physical therapist shall not profit by means of a credit or other valuable consideration, such as an unearned commission, discount, or gratuity, in connection with the furnishing of physical therapy services.

H. Unless laws impose restrictions to the contrary, physical therapists who provide physical therapy services within a business entity may pool fees and monies received. Physical therapists may divide or apportion these fees and monies in accordance with the business agreement.

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

7.2 Endorsement of Products or Services

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

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

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

7.3 Disclosure

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

Principle 8

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

8.1 Accurate and Relevant Information to the Patient

- A. A physical therapist shall provide the patient/client information about his/her condition and plan of care. See Section 2.4.
- B. Upon the request of the patient, the physical therapist shall provide, or make available, the medical record to the patient or a patient-designated third party.
- C. A physical therapist shall inform patients of any known financial limitations that may affect their care.
- D. A physical therapist shall inform the patient when, in his/her judgment, the patient will receive negligible benefit from further care. See Section 7.1.C.

8.2 Accurate and Relevant Information to the Public

- A. A physical therapist shall inform the public about the societal benefits of the profession and who is qualified to provide physical therapy services.
- B. Information given to the public shall emphasize that individual problems cannot be treated without individualized examination and plans/programs of care.
- C. A physical therapist may advertise his/her services to the public.
- D. A physical therapist shall not use, or participate in the use of, any form of communication containing a false, plagiarized, fraudulent, deceptive, unfair, or sensational statement or claim.
- E. A physical therapist who places a paid advertisement shall identify it as such unless it is apparent from the context that it is a paid advertisement.

Principle 9

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

9.1 Consumer Protection

- A. A physical therapist shall provide care that is within the scope of practice as defined by the state practice act.
- B. A physical therapist shall not engage in any conduct that is unethical, incompetent or illegal.
- C. A physical therapist shall report any conduct that appears to be unethical, incompetent, or illegal.
- D. A physical therapist may not participate in any arrangements in which patients are exploited due to the referring sources' enhancing their personal incomes as a result of referring for, prescribing, or recommending physical therapy.

Principle 10

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

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10.1 Pro Bono Service

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

10.2 Community Health

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

Principle 11

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

11.1 Consultation

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

11.2 Patient/Provider Relationships

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

11.3 Disparagement

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

Guide for Conduct of the Physical Therapist Assistant

Standard 1

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

1.1 Attitude of a physical therapist assistant

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

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

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

Standard 2

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

2.1 Trustworthiness

- A. To act in a trustworthy manner a physical therapist assistant shall act in the patient's/client's best interest. Working in the patient's/client's best interest requires sensitivity to the patient's/client's vulnerability and an effective working relationship between the physical therapist and the physical therapist assistant.
- B. A physical therapist assistant shall act to ameliorate the patient's/client's vulnerability, not to exploit it.
- C. A physical therapist assistant shall clearly identify him/herself as a physical therapist assistant to patients/clients.
- D. A physical therapist assistant shall conduct him/herself in a manner that supports the physical therapist/patient relationship.
- E. A physical therapist assistant shall not engage in any sexual relationship or activity, whether consensual or nonconsensual, with any patient entrusted to his/her care.
- F. A physical therapist assistant shall not invite, accept, or offer gifts or other considerations that affect or give an appearance of affecting his/her provision of physical therapy interventions.

2.2 Exploitation of Patients

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

2.3 Truthfulness

- A. A physical therapist assistant shall not make statements that he/she knows or should know are false, deceptive, fraudulent, or unfair.
- B. Although it cannot be considered unethical for a physical therapist assistant to own or have a financial interest in the production, sale, or distribution of products/services, he/she must act in accordance with law and make full disclosure of his/her interest to patients/clients.

2.4 Confidential Information

- A. Information relating to the patient/client is confidential and may not be communicated to a third party not involved in that patient's care without the prior consent of the patient, subject to applicable law.
- B. A physical therapist assistant shall refer all requests for release of confidential information to the supervising physical therapist.

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Standard 3

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

3.1 Supervisory Relationship

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

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

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

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

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

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

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

Standard 4

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

4.1 Supervision

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

4.2 Representation

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

Standard 5

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

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5.1 Competence

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

5.2 Self-assessment

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

5.3 Development

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

Standard 6

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

6.1 Patient Safety

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

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

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

6.2 Patient Status Judgments

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

6.3 Gifts and Other Considerations

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

Standard 7

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

7.1 Consumer Protection

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

7.2 Organizational Employment

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

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

HIPAA AND PATIENT PRIVACY

In April 2001, 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 provide patients with access to their medical records and more control over how their personal health information is used and disclosed.

Covered Entities

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

Information Protected

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

Patient Protections

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

- **Access To Medical Records.** Patients generally should be able to see and obtain copies of their medical records and request corrections if they identify errors and mistakes. Health plans, doctors, hospitals, clinics, nursing homes and other covered entities generally should provide access to these records within 30 days and may charge patients for the cost of copying and sending the records.

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- **Notice of Privacy Practices.** Covered health plans, doctors and other health care providers must provide a notice to their patients how they may use personal medical information and their rights under the new privacy regulation. Doctors, hospitals and other direct-care providers generally will provide the notice on the patient's first visit and upon request. Patients generally will be asked to sign, initial or otherwise acknowledge that they received this notice. Patients also may ask covered entities to restrict the use or disclosure of their information beyond the practices included in the notice, but the covered entities would not have to agree to the changes.
- **Limits on Use of Personal Medical Information.** The privacy rule sets limits on how health plans and covered providers may use individually identifiable health information. To promote the best quality care for patients, the rule does not restrict the ability of doctors, nurses and other providers to share information needed to treat their patients. In other situations, though, personal health information generally may not be used for purposes not related to health care, and covered entities may use or share only the minimum amount of protected information needed for a particular purpose. In addition, patients would have to sign a specific authorization before a covered entity could release their medical information to a life insurer, a bank, a marketing firm or another outside business for purposes not related to their health care.
- **Prohibition on Marketing.** The final privacy rule sets new restrictions and limits on the use of patient information for marketing purposes. Pharmacies, health plans and other covered entities must first obtain an individual's specific authorization before disclosing their patient information for marketing. At the same time, the rule permits doctors and other covered entities to communicate freely with patients about treatment options and other health-related information, including disease-management programs.
- **Stronger State Laws.** The new federal privacy standards do not affect state laws that provide additional privacy protections for patients. The confidentiality protections are cumulative; the privacy rule will set a national "floor" of privacy standards that protect all Americans, and any state law providing additional protections would continue to apply. When a state law requires a certain disclosure -- such as reporting an infectious disease outbreak to the public health authorities -- the federal privacy regulations would not preempt the state law.
- **Confidential communications.** Under the privacy rule, patients can request that their doctors, health plans and other covered entities take reasonable steps to ensure that their communications with the patient are confidential. For example, a patient could ask a doctor to call his or her office rather than home, and the doctor's office should comply with that request if it can be reasonably accommodated.

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- **Complaints.** Consumers may file a formal complaint regarding the privacy practices of a covered health plan or provider. Such complaints can be made directly to the covered provider or health plan or to HHS' Office for Civil Rights (OCR), which is charged with investigating complaints and enforcing the privacy regulation. Information about filing complaints should be included in each covered entity's notice of privacy practices.

Health Plans and Providers

The privacy rule requires health plans, pharmacies, doctors and other covered entities to establish policies and procedures to protect the confidentiality of protected health information about their patients. These requirements are flexible and scalable to allow different covered entities to implement them as appropriate for their businesses or practices. Covered entities must provide all the protections for patients cited above, such as providing a notice of their privacy practices and limiting the use and disclosure of information as required under the rule. In addition, covered entities must take some additional steps to protect patient privacy:

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

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- **Equivalent Requirements For Government.** The provisions of the final rule generally apply equally to private sector and public sector covered entities. For example, private hospitals and government-run hospitals covered by the rule have to comply with the full range of requirements.

ETHICS AND JURISPRUDENCE CASE STUDIES

Case Study #1 - Confidentiality

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

Is this a breach in confidentiality?

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

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

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

Case Study #2 – Qualifications of Practice

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

Is the clinic providing ethical care to its patients?

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

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

Case Study #3 – Informed Consent

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

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

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

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from the ethical duty of the therapist to involve the patient in her health care.

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

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

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

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

Case Study #4- Medical Necessity

Steve is a physical therapist and owns his own therapy clinic. He recently signed a contract with an HMO to provide physical therapy services. The contract stipulates that Steve will be compensated on a case rate basis.

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(A fixed amount of money per patient, based on diagnosis) Steve has performed a thorough cost analysis on this contract and has determined that the financial “breakeven” point (revenue equals expenses) on each of these patients is 5 visits. He informs his staff that all patients covered by this insurance must be discharged by their fourth visit.

Is limiting care in this manner ethical?

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

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

Case Study #5 – Billing and Coding

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

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

All co-payments and deductibles must be collected. In most instances, the decision on whether or not to collect this money cannot be made by the provider. The reason for this is quite simple. When a patient purchases a health insurance policy, (either as an individual or through a group plan), they are signing a legal contract that contains specific terms and stipulations. Typically, the cost of the policyholder’s monthly premiums is based on the amount of coverage they have purchased and also the amount of co-payment and deductible. A high co-payment / deductible results in a lower monthly premium. Conversely, a low co-payment / deductible will result in a higher monthly premium. By not collecting the co-payment / deductible, the therapist is effectively committing a crime by conspiring with the patient to defraud their insurance company. The question frequently asked by providers is “Why

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should the insurance company care, I'm the one who is not getting paid?" That is true; however, ultimately, the insurance company ends up paying out more because patients, who have no financial responsibility associated with their healthcare, are more likely to utilize a greater number of services (and subsequently have higher total bills) than those who must contribute directly for their care.

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

Case Study #6 – Conflicts of Interest

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

Does this represent a conflict of interest?

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

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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. (*APTA's Guide for Professional Conduct, Principles 7.2.A 7.2.B*)

Case Study #7 – Relationships with Referral Sources

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

Is this an ethical arrangement?

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

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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**. (*APTA's Guide for Professional Conduct, Principle 9.1.D*)

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POST-TEST

1. The ethics theory that proposes that right and wrong are determined by the consequences is called
 - A. Utilitarianism
 - B. Social Contract Theory
 - C. Ethical Intuitionism
 - D. Virtue Ethics
2. The duty to tell the truth is also known as
 - A. Autonomy
 - B. Beneficence
 - C. Nonmaleficence
 - D. Veracity
3. According to 448.56 of the Wisconsin statutes, a physical therapist may provide PT services without a written referral under which of the following circumstances?
 - A. In schools to children with disabilities
 - B. To a patient in a nursing home pursuant to the patient's plan of care.
 - C. Care relating to athletic activities, conditioning, or injury prevention
 - D. All of the above
4. Which of the following statements is FALSE concerning PTA supervision requirements?
 - A. The supervising PT must meet face to face with the PTA at least once every 14 days
 - B. The supervising PT must provide on-site assessment and reevaluation of each patient's treatment at least once per month or every 10th treatment day, whichever is sooner.
 - C. The supervising PT must review all PTA treatment notes weekly.
 - D. A physical Therapist may not supervise more than 2 full-time PTA's practicing under general supervision.
5. Unprofessional conduct by a physical therapist is defined in which of the following?
 - A. Rule PT 4.01 of the Wisconsin Administrative Code
 - B. Rule PT 7.02 of the Wisconsin Administrative Code
 - C. Chapter 448.54 of the Wisconsin Statutes
 - D. Principle 10 of the APTA Code of Ethics

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6. The licenses of all Wisconsin physical therapists and physical therapist assistants expire on, and must be renewed before, what date?
 - A. November 1 of odd years
 - B. November 1 of even years
 - C. January 1 of even years
 - D. October 1 of odd years

7. Each biennial registration period, Wisconsin licensed physical therapists must complete ____ hours of continuing education; and physical therapist assistants must complete ____ hours of continuing education. Included in that total, ____ hours must be in the area of ethics and jurisprudence.
 - A. 30, 20, 2
 - B. 30, 30, 4
 - C. 30, 20, 4
 - D. 20, 20, 4

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

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

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