

ETHICS AND JURISPRUDENCE - TENNESSEE PHYSICAL THERAPY

GOALS AND OBJECTIVES

Course Description

"Ethics and Jurisprudence – Tennessee Physical Therapy" is a home study continuing education program for TN 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 the Tennessee Physical Therapy Practice Act (TN Code, Title 63, Chapter 13, Parts 1 & 3), the TN Rules Governing the Practice of Physical Therapy (Chapter 1150-1), TN Board of Physical Therapy Policy Statements, licensure process, scope of practice, licensure renewal, disclosures to patients, offenses that may lead to disciplinary actions, supervision requirements, the APTA's Code of Ethics and Guide for Professional Conduct for Physical Therapists and assistants, model for ethical decision making, and hypothetical case analysis.

Course Rationale

This course is designed to educate, promote and facilitate ethical and legal behavior by Tennessee licensed physical therapist and physical therapist assistants. It is intended to fulfill the requirements of Chapter 1150-1-.12(4) of the Tennessee Rules Governing the Practice of Physical Therapy.

Course Goals & Objectives

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

1. define the meaning of Ethics and explain the various theories that promote ethical behavior.
2. understand and apply the APTA's standards of professional ethical conduct
3. understand the ethical decision making model
4. apply the ethical decision making model to clinical situations to determine appropriate professional behavior
5. understand all of the rights and responsibilities of physical therapy licensure as defined by the Tennessee Physical Therapy Practice Act and the Tennessee Rules Governing the Practice of Physical Therapy
6. identify, understand, and apply pertinent laws and rules relating to licensure process
7. identify, understand, and apply pertinent laws and rules relating to scope of practice
8. identify, understand, and apply pertinent laws and rules relating to patient disclosure
9. identify, understand, and apply pertinent laws and rules relating to disciplinary action
10. identify, understand, and apply pertinent laws and rules relating to supervision requirements.

Course Instructor - Michael Niss, DPT

Target Audience - Tennessee licensed physical therapists and physical therapist assistants

Course Educational Level - This course is applicable for introductory learners.

Course Prerequisites – None

Criteria for issuance of Continuing Education Credits - A documented score of 70% or greater on the written post-test.

Continuing Education Credits - Four (4) hours of continuing education credit

Method of Instruction/Availability – Text-based home study course available continuously via the internet

Criteria for Issuance of Continuing Education Credits -

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

Determination of Continuing Education Contact Hours

"Ethics and Jurisprudence – Tennessee Physical Therapy" 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 48 pages (excluding References and Post Test)

OUTLINE

	page	
Goals and Objectives	1	start hour 1
Outline	2	
Ethics	3-27	
Ethics Overview	3	
Ethics Theories	4-6	
Model for Ethical Decision Making	6-7	
APTA Code of Ethics	8-12	
Standards of ethical Conduct for the PTA	12-15	
The APTA Guide for Professional Conduct	15	end hour 1
The APTA Guide for the Conduct of the PTA	16	start hour 2
Ethics Case Analysis	16-22	
Case Study #1 – Confidentiality	16-17	
Case study #2 – Qualifications of Practice	17-18	
Case Study #3 – Informed Consent	18-19	
Case Study #4 – Medical Necessity	19	
Case Study #5 – Billing Coding	20	
Case Study #6 – Conflict of Interest	20-22	
Case Study #7 – Relationships with Referral Sources	22	end hour 2
Jurisprudence	23-49	start hour 3
Statutes (T.A.C., Title 63, Chapter 13)	23	
Part 1	23	
Part 3	23	
Rules (Chapter 1150-1)	24	
Physical Therapy Licensure Process	24-27	
Licensure by Examination	24-25	
Licensure by Reciprocity	25-26	
Licensure for Internationally Educated	26-27	
Licensure to Practice Electrophysiological Studies	27	
Licensure Renewal	27	
Change of Licensure Status	28-29	
Offenses That May Lead to Disciplinary Actions	29-31	
Disciplinary Actions & Civil Penalties	31-33	end hour 3
Continuing Competence	33-36	start hour 4
Scope of Practice	36-39	
Supervision Requirements	39-41	
Disclosure & Confidentiality	41-42	
Consumer Right to Know Requirements	42	
The Lawful Use of PT & PTA Titles	42-43	
Release of Client Records	43	
Policy Statements of the TN Board of PT	43-49	
Consent Form without Referral	43	
Physical Therapy Discharge Plans	43	
Direct Access to Physical Therapy	44	
Monitoring of Home Health Aides	44	
Continuing Competence	45	
Renewal of Licensees Called to Active Duty	45-46	
Patient Referrals for Physical Therapy	46-47	
Lapsed Licenses	47-48	
Multidisciplinary Health Screenings	48	
References	49	
Post-Test	50-51	end hour 4

Ethics Overview

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

Why Ethics are Important

Ethics are important on several levels.

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

Ethics vs. Morals

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

Ethical Questions

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

Ethics Theories

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

Utilitarianism

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

Social Contract Theory

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

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

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

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

Deontological or Duty Theory

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

Ethical Intuitionism

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

Ethical Egoism

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

Natural Law Theory

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

Virtue Ethics

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

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

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

Beneficence: the duty to do good.

Confidentiality: the duty to respect privacy of information.

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

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

Nonmaleficence: the duty to cause no harm.

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

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

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

Veracity: the duty to tell the truth.

Model for Ethical Decision Making

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?

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 there an established standard?

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.

APTA Code of Ethics

Preamble

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 6A. Physical therapists shall achieve and maintain professional competence.
- 6B. Physical therapists shall take responsibility for their professional development based on critical self-assessment and reflection on changes in physical therapist practice, education, healthcare delivery, and technology.
- 6C. Physical therapists shall evaluate the strength of evidence and applicability of content presented during professional development activities before integrating the content or techniques into practice.
- 6D. Physical therapists shall cultivate practice environments that support professional development, life-long learning, and excellence.

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

- 7A. Physical therapists shall promote practice environments that support autonomous and accountable professional judgments.
- 7B. Physical therapists shall seek remuneration as is deserved and reasonable for physical therapist services.
- 7C. Physical therapists shall not accept gifts or other considerations that influence or give an appearance of influencing their professional judgment.
- 7D. Physical therapists shall fully disclose any financial interest they have in products or services that they recommend to patients/clients.
- 7E. Physical therapists shall be aware of charges and shall ensure that documentation and coding for physical therapy services accurately reflect the nature and extent of the services provided.
- 7F. Physical therapists shall refrain from employment arrangements, or other arrangements, that prevent physical therapists from fulfilling professional obligations to patients/clients.

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

- 8A. Physical therapists shall provide *pro bono* physical therapy services or support organizations that meet the health needs of people who are economically disadvantaged, uninsured, and underinsured.
- 8B. Physical therapists shall advocate to reduce health disparities and health care inequities, improve access to health care services, and address the health, wellness, and preventive health care needs of people.

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

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

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

The Standards of Ethical Conduct for the Physical Therapist Assistant

Preamble

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Innovative Educational Services

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

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

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

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

APTA Guide for Professional Conduct

Purpose

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

Interpreting Ethical Principles

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

Reference to Code of Ethics

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

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

APTA Guide for Conduct of the Physical Therapist Assistant

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

Interpreting Standards

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

Reference to Standards of Ethical Conduct for the Physical Therapist Assistant

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

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

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

Ethics Case Analysis

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

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.

Case Study #3 – Informed Consent

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

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

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

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

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

In order for the patient's consent to be valid, they must be considered competent to make the decision at hand and their consent must be

voluntary. It is easy for coercive situations to arise in medicine. Patients often feel powerless and vulnerable. The therapist should make clear to the patient that they are participating in a decision, not merely signing a form. With this understanding, the informed consent process should be seen as an invitation for them to participate in their health care decisions. The therapist is also generally obligated to provide a recommendation and 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.

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

Case Study #4- Medical Necessity

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

Is limiting care in this manner ethical?

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

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

Case Study #5 – Billing and Coding

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

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

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

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

Case Study #6 – Conflicts of Interest

Debi Jones PT works in an acute care hospital. She is meeting with a vendor whose company is introducing a new brace onto the market. He offers her 3 free braces to “try out” on patients. The vendor states that if

Debi continues to order more braces, she will qualify to receive compensation from his company by automatically becoming a member of its National Clinical Assessment Panel.

Does this represent a conflict of interest?

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

A conflict of interest is a situation in which a person has a private or personal interest that influences the objective exercise of his or her professional duties. As a professional you take on certain responsibilities and obligations to patients, employers, and others. These obligations must take precedence over a therapist's private or personal interests. In addition to avoiding all real instances of conflict of interest, therapists must also avoid any apparent or potential conflicts as well.

An apparent conflict of interest is one in which a reasonable person would think that the professional's judgment is likely to be compromised, and a potential conflict of interest involves a situation that may develop into an actual conflict of interest.

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

the whole profession by reducing the trust people generally have in therapists.

Case Study #7 – Relationships with Referral Sources

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

Is this an ethical arrangement?

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

It is unethical for a physical therapist to offer **anything of value** to physicians or any other referral source **in direct response for the referral of patients or services**. This includes cash, rebates, gifts, discounts, reduced rent, services, equipment, employees, or marketing. Many mistakenly believe that it is a normal acceptable business practice to offer these things to referral sources. It is not. In most states, the practice is not only unethical, but it is also illegal. Exchanges of valued items or services between therapists and referral sources **must never have any relationship to the referral of patients**. Goodwill gifts of nominal value are acceptable provided that no correlation can be made between the magnitude or frequency of the gift giving and referral patterns. All business agreements and transactions should always be well documented and most importantly, **reflect fair market value**.

TENNESSEE PHYSICAL THERAPY JURISPRUDENCE

Statutes

Statutes are proposed and made law by the Tennessee State General Assembly (Legislature). The statutes pertaining to physical therapy are known as the Physical Therapy Practice Act, and are written as part of the Tennessee Code Annotated (T. C. A. Title 63, Chapter 13). **To read the statutes in their entirety, go to: <http://michie.lexisnexis.com/tennessee/lpext.dll?f=templates&fn=main-h.htm&cp=>**

The Occupational and Physical Therapy Practice Act (Tennessee Code Annotated, Title 63, Chapter 13, Parts 1 & 3)

TAC, Title 63, Chapter 13, Part 1

Table of Contents

63-13-101	Short title.
63-13-102	Legislative intent.
63-13-103	Chapter definitions.
63-13-104	Repealed
63-13-105	Repealed
63-13-106	Repealed
63-13-107	Repealed
63-13-108	Repealed
63-13-109	Unauthorized practice of medicine — Scope of practice.

TAC, Title 63, Chapter 13, Part 3

Table of Contents

63-13-301	License requirement.
63-13-302	Referrals — Ethical standards.
63-13-303	Exceptions to Referral Requirements
63-13-304	Board Powers
63-13-305	Claims and practices of other licensed professionals — Exemptions from licensure.
63-13-306	Application — Examinations.
63-13-307	Qualifications of applicants — Reciprocity.
63-13-308	License renewal — Changes in name or address — Retirement — Inactive status — Exemption from continuing education requirements.
63-13-309	Reinstatement of license — Failure to renew license.
63-13-310	Unlawful use of titles or designations indicating licensure.
63-13-311	Supervision of students and assistive personnel.
63-13-312	Denial, suspension or revocation of licenses.
63-13-313	Disciplinary actions of the Board.
63-13-314	Administrative procedure of disciplinary actions — Jurisdiction of Board.
63-13-315	Penalties.
63-13-316	Peer assistance program — Fees.
63-13-317	Disclosures to patient — Confidentiality of information —
63-13-318	Board of Physical Therapy

Rules

The Board of Occupational and Physical Therapy Examiners adopts rules. The rules specific to physical therapy are found in Chapter 1150-1.

Both the statutes (T.C.A. Title 63, Chapter 13) and the rules (Chapter 1150-1) have the force of law and are used in the regulation of the profession.

Tennessee General Rules Governing the Practice of Physical Therapy (Official Compilation, Rules & Regulations, Chapter 1150-1)

Chapter 1150-1 Table of Contents

- 1150-1-.01 Definitions
- 1150-1-.02 Scope of Practice and Supervision
- 1150-1-.03 Necessity of Licensure
- 1150-1-.05 Procedures for Licensure
- 1150-1-.06 Fees
- 1150-1-.07 Application Review, Approval and Denial
- 1150-1-.08 Examinations
- 1150-1-.09 Renewal of License
- 1150-1-.10 Provisional License
- 1150-1-.11 Retirement and Reactivation of License
- 1150-1-.12 Continuing Competence
- 1150-1-.13 Advertising
- 1150-1-.14 Code of Ethics
- 1150-1-.15 Disciplinary Actions, Civil Penalties, Assessment of Costs,
and Screening Panels
- 1150-1-.16 Duplicate (Replacement) License
- 1150-1-.17 Change of Address and/or Name
- 1150-1-.18 Mandatory Release of Client Records
- 1150-1-.19 Board Meetings, Officers, Consultants, Records, and
Declaratory Orders
- 1150-1-.20 Consumer Right-To-Know Requirements
- 1150-1-.21 Professional Peer Assistance

To read the rules in their entirety, go to: <http://www.state.tn.us/sos/rules/1150/1150-01.pdf>

Physical Therapy Licensure Process

Licensure by Examination (1150-1-.04(1))

To qualify for licensure by examination, a Physical Therapist or a Physical Therapist Assistant must:

1. Be of good moral character; and
2. Be a graduate of a school of physical therapy accredited by CAPTE or a school for physical therapy assistants accredited by CAPTE; and

3. Pass to the satisfaction of the committee an examination conducted by it to determine fitness for practice as a physical therapist or physical therapy assistant.

Licensure by Reciprocity (1150-1-.04(2))

To qualify for licensure by reciprocity a physical therapist or physical therapist assistant must possess a current and unrestricted license from another U.S. jurisdiction and comply with either (a), (b) or (c) below.

(a) Credentials required for individuals who attained certification, registration or licensure in another state or country from July, 1995, to date:

1. Be of good moral character;
2. Graduate from a physical therapist or physical therapist assistant program accredited by CAPTE and approved by the Committee of Physical Therapy;
3. Obtain verification of licensure status from all states in which he holds or has held a license; and
4. Candidates qualifying for licensure by reciprocity must have passed the licensing examination with a criterion referenced passing point.

(b) Credentials required for applicants who attained certification, registration, or licensure in another state or country from December 29, 1981 to July, 1995.

1. Be of good moral character;
2. Graduate from a physical therapist or physical therapy assistant program accredited by CAPTE and approved by the Committee of Physical Therapy;
3. Obtain verification of licensure status from all states in which he holds or has held a license; and
4. Candidates qualifying for licensure by reciprocity must have passed the licensing examination with a minimum converted score of seventy-five (75), based on one point five (1.5) sigma below the national mean for the examination. This applies to the score of each individual part as well as the total score.

(c) Credentials required for applicants who attained certification, registration or licensure in another state or country from July 1, 1976 to December 28, 1981:

1. Be of good moral character;
2. Graduate from a physical therapist or physical therapist assistant program accredited by CAPTE or a physical therapist or physical therapist assistant program approved by the American Medical Association;
3. Pursuant to Rule 1150-1-.07, obtain verification of licensure status from all states in which he holds or has held a license; and
4. Candidates qualifying for licensure by reciprocity must have passed the licensing examination with a minimum converted score of seventy-five (75), based on one point five (1.5) sigma below the national mean for the

examination. This applies to the score of each individual part as well as the total score.

Licensure for Internationally Educated (1150-1-.04(3))

In addition to meeting the requirements outlined either in Rule 1150-1-.04(1) except 1150-1-.04(1)(b), or 1150-1-.04(2) except 1150-1-.04(2)(b)2, international graduates must:

(a) Have submitted directly to the Board's administrative office a validly issued and error-free "Comprehensive Credential Evaluation Certificate for the Physical Therapist" (Type 1 Certificate) from the Foreign Credentialing Commission on Physical Therapy (FCCPT) for the purpose of evaluating and verifying that the applicant's education is substantially equivalent to a curriculum approved by CAPTE.

1. Submitting the "Visa Credential Verification Certificate," also issued by the FCCPT, will not constitute meeting this requirement.
 2. Applicants who cannot obtain a Type 1 Certificate from the FCCPT based on their ineligibility to sit for the Test of English as a Foreign Language internet Based Test (TOEFL iBT) must submit all other components of the Type 1 Certificate directly to the Board's administrative office, for the purpose of evaluating and verifying that the applicant's education is substantially equivalent to a curriculum approved by CAPTE;
- or

(b) Have submitted directly to the Board's administrative office a validly issued and error-free certification from any agency verifying that the applicant's education is substantially equivalent to a curriculum approved by CAPTE.

1. The agency must evaluate the curriculum in a manner similar to the FCCPT educational credentials review.
2. The result or outcome of the evaluation is the issuance of certification that the Board considers to be equivalent to the "Comprehensive Credential Evaluation Certificate for the Physical Therapist" (Type 1 Certificate) from the FCCPT.

(c) Submit proof of United States or Canada citizenship or evidence of being legally entitled to live and work in the United States. Such evidence may include notarized copies of birth certificates, naturalization papers or current visa status.

(d) Have credentials that comply with the applicable provisions of T.C.A. § 63-13-307 (d) if the applicant was registered, certified, or licensed as a physical therapist or physical therapist assistant in another state or country prior to July 1, 1976.

(e) After receiving written approval from the Board regarding the credentials in subparagraph (a), have participated in and successfully completed a Board-approved supervised clinical practice period to provide a broad exposure to general physical therapy skills, pursuant to guidelines approved and issued by the Board.

1. The supervised clinical practice period shall be four hundred and eighty (480) hours and shall be accomplished at a rate of no more than forty (40) hours or no less than ten (10) hours per week.

2. The supervising licensed physical therapist shall submit the evaluation form contained in the guidelines supplied by the Board to the Board's administrative office upon completion of the supervisory period.
3. If the Board determines the supervised clinical period has not been successfully completed, the Board may require additional time in supervised clinical practice, additional coursework, and/or oral examination.
4. Supervision provided by the applicant's parents, spouse, former spouse, siblings, children, cousins, in-laws (present or former), aunts, uncles, grandparents, grandchildren, stepchildren, employees, present or former physical therapist, present or former romantic partner, or anyone sharing the same household shall not be acceptable toward fulfillment of licensure requirements. For the purposes of this rule, a supervisor shall not be considered an employee of the applicant, if the only compensation received by the supervisor consists of payments for the actual supervisory hours.

Licensure to Practice Electrophysiologic Studies (1150-1-.04(4))

- (a) Applicants for licensure as a Physical Therapist who seek to conduct diagnostic electromyography (invasive needle study of multiple muscles for diagnosis of muscle and nerve disease), while practicing must submit to the Board's administrative office documented evidence of possessing current ECS certification from the American Board of Physical Therapy Specialties.
- (b) Applicants for licensure as a Physical Therapist who seek to conduct surface electrophysiological studies (motor and sensory conduction, and somatosensory evoked potentials), and kinesiological studies (invasive needle study of muscles to determine the degree and character of a muscle during certain movements), while practicing must submit to the Board's administrative office documented evidence of possessing the theoretical background and technical skills for safe and competent performance of such studies.
- (c) Supervision - The supervision of applicants who seek to conduct diagnostic electromyography, surface electrophysiological studies, and kinesiological studies shall be consistent with sound medical practice.

Licensure Renewal

Methods of License Renewal (1150-1-.09(1)(b))

1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at: www.tennesseeanytime.org
2. Paper Renewals - For individuals who have not renewed their license online via the Internet, a renewal application form will be mailed to each individual licensed by the Committee to the last address provided to the Committee. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.

Eligibility for License Renewal (1150-1-.09(1)(c))

To be eligible for renewal, an individual must submit to the Division of Health Related Boards on or before the expiration date all of the following:

1. A completed and signed board renewal application form; and
2. The renewal and State regulatory fees; and
3. A statement attesting to the completion of continuing competence requirements.

Licensees who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses revoked

Anyone submitting a signed renewal form or letter which is found to be untrue may be subjecting himself to disciplinary action.

Reinstatement of an expired license may be accomplished upon payment of the reinstatement fee and the renewal fee, and by submitting proof of completing continuing competence requirements.

Change of Licensure Status

Retirement of License (1150-1-.11(1), 1150-1-.11(2))

A person who holds a current license and does not intend to practice as a physical therapist or physical therapist assistant in Tennessee may apply to convert an active license to inactive (“retired”) status.

An individual who holds a retired license will not be required to pay the renewal fee.

A person who holds an active license may apply for retired status in the following manner:

- (a) Obtain from the Committee’s administrative office an affidavit of retirement form; and
- (b) Complete and submit the affidavit affirming that, while in retired status, the licensee will not practice or in any way indicate or imply that he holds an active Tennessee license or use within Tennessee any words, letters, titles, or figures which indicate or imply that he is a licensed physical therapist or physical therapist assistant; or
- (c) Submit a letter, which has been signed and notarized, requesting his license to be placed in retirement. Such letter must contain a statement indicating that the licensee understands that he can not practice or in any way indicate or imply that he holds an active Tennessee license or use within Tennessee any words, letters, titles, or figures which indicate or imply that he is a licensed PT or PTA.

Reinstatement/Reactivation of an Expired or Retired License (1150-1-.11(3))

License holders whose licenses have been retired may reactivate their licenses in the following manner:

- (a) Submit a written request for licensure reactivation to the Board's administrative office including a statement describing all relevant experiences education during the period of retirement or inactivity; and
- (b) Pay the current licensure renewal fees and State regulatory fee as provided in Rule 1150-1-.06. If retirement reactivation is requested prior to the expiration of one (1) year from the date of retirement, the Board will additionally require payment of the reinstatement fee as prescribed in Rule 1150-1-.06.
- (c) Complete the continuing competence requirements, as provided in Rule 1150-1-.12.

Offenses That May Lead to Disciplinary Action (63-13-312)

The Board of Physical Therapy has the power to deny, suspend, or revoke the license of a licensee who is guilty of the following acts:

1. Practicing physical therapy in violation of the provisions of Tennessee Code Title 63, Chapter 13 or any rule;
2. Practicing or offering to practice beyond the scope of physical therapy practice;
3. Making false or misleading statements or representations, being guilty of fraud or deceit in obtaining admission to practice, or being guilty of fraud or deceit in the licensee's practice;
4. Engaging in the performance of substandard care by a physical therapist due to ignorance, incompetence, or a deliberate or negligent act or failure to act regardless of whether actual injury to the patient is established;
5. Engaging in the performance of substandard care by a physical therapist assistant, which includes exceeding the authority to perform the task selected and delegated by the supervising physical therapist regardless of whether actual injury to the patient is established;
6. Inadequately supervising or delegating duties which exceed the scope of practice for assistive personnel in accordance with the chapter and rules adopted by the committee;
7. Conviction of a felony or any offense involving moral turpitude in the courts of TN or any other state, territory or country. "Conviction," includes a finding or verdict of guilt, or a plea of nolo contendere;
8. Practicing as a physical therapist or working as a physical therapist assistant when physical or mental abilities are impaired by the use of controlled substances, other habit-forming drugs, chemicals or alcohol;

9. Disciplinary action against a person licensed to practice as a physical therapist or physical therapist assistant by another state or territory of the United States for any acts or omissions which would constitute grounds for discipline of a person licensed in TN.

10. Engaging in sexual misconduct. "Sexual misconduct," includes:

(A) Engaging in or soliciting sexual relationships, whether consensual or non-consensual, while a physical therapist or physical therapist assistant/patient relationship exists;

(B) Making sexual advances, requesting sexual favors, and engaging in other verbal conduct or physical conduct or physical contact of a sexual nature with patients; and

(C) Intentionally viewing a completely or partially disrobed patient in the course of treatment, if the viewing is not related to patient diagnosis or treatment under current practice standards;

11. Directly or indirectly requesting, receiving, or participating in the dividing, transferring, assigning, rebating or refunding of an unearned fee, or profiting 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.

12. Failing to adhere to standards of ethics of the physical therapy profession;

13. Charging unreasonable or fraudulent fees for services performed or not performed;

14. Making misleading, deceptive, untrue or fraudulent representations in the practice of the profession

15. Being under a current judgment of mental incompetency rendered by a court of competent jurisdiction;

16. Aiding or abetting a person not licensed in this state who directly or indirectly performs activities requiring a license;

17. Failing to report to the committee any act or omission of a licensee, applicant, or any other person, which violates the provisions of therapy licensure;

18. Interfering with, or refusing to cooperate in, an investigation or disciplinary proceeding, including willful misrepresentation of facts or by the use of threats or harassment against any patient or witness to prevent the patient or witness from providing evidence in a disciplinary proceeding or any legal action;

19. Failing to maintain patient confidentiality without prior written consent or unless otherwise required by law;
20. Failing to maintain adequate patient records that contain a minimum of an evaluation of objective finding, a physical therapy treatment diagnosis, the plan of care including desired outcomes, the treatment record, a discharge plan including results of intervention, and sufficient information to identify the patient;
21. Promoting unnecessary devices, treatment intervention or service for the financial gain of the practitioner or of a third party;
22. Providing treatment intervention unwarranted by the condition of the patient, nor shall the licensee continue treatment beyond the point of reasonable benefit;
23. A violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate, any provisions of this chapter or any lawful order of the committee issued pursuant thereto, or any criminal statute of the state of Tennessee;
24. Division of fees or agreeing to split fees or divide fees received for professional services with any person for bringing or referring a patient; or
25. Payment or acceptance of commissions, in any form or manner, on fees for professional services, references, consultations, pathological reports, prescriptions, or on other services or articles supplied to patients.

Disciplinary Actions and Civil Penalties (1150-1-.15)

Upon a finding by the Committee that a physical therapist or physical therapist assistant has violated any provision of the T.C.A. §§ 63-13-101 the Committee may impose any of the following actions separately or in any combination deemed appropriate to the offense.

1. **Advisory Censure** - This is a written action issued to the physical therapist or physical therapist assistant for minor or near infractions. It is advisory in nature and does not constitute a formal disciplinary action.
2. **Formal Censure or Reprimand** - This is a written action issued to a physical therapist or physical therapist assistant for one time and less severe violations. It is a formal disciplinary action.
3. **Probation** - This is a formal disciplinary action which places a physical therapist or physical therapist assistant on close scrutiny for a fixed period of time. This action may be combined with conditions which must be met

before probation will be lifted and/or which restrict the individual's activities during the probationary period.

4. Licensure Suspension - This is a formal disciplinary action which suspends an individual's right to practice for a fixed period of time. It contemplates the reentry of the individual into the practice under the license previously issued.

5. Licensure Revocation - This is the most severe form of disciplinary action which removes an individual from the practice of the profession and terminates the licensure previously issued. If revoked, it relegates the violator to the status he possessed prior to application for licensure. However, the Committee may, in its discretion, allow the reinstatement of a revoked license upon conditions and after a period of time it deems appropriate. No petition for reinstatement and no new application for licensure from a person whose license was revoked shall be considered prior to the expiration of at least one (1) year unless otherwise stated in the Committee's revocation order.

Civil Penalties

The minimum and maximum civil penalties which may be assessed.

1. Type A Civil Penalty - may be imposed whenever the Committee finds a person who is required to be licensed, certified, permitted or authorized by the Committee, guilty of a willful and knowing violation of the Practice Act, or regulations promulgated pursuant thereto, to such an extent that there is, or is likely to be, an imminent, substantial threat to the health, safety and welfare of an individual patient or the public. For purposes of this section, willfully and knowingly practicing as a physical therapist or physical therapist assistant without a permit, license, certification, or other authorization from the Board is one of the violations of the Physical Therapy Practice Act for which a Type A Civil Penalty is assessable. Type A Civil Penalties shall be assessed in the amount of not less than \$500 nor more than \$1,000.

2. Type B Civil Penalty - may be imposed whenever the Committee finds the person required to be licensed, certified, permitted, or authorized by the Committee guilty of a violation of the Physical Therapy Practice Act or regulations promulgated pursuant thereto in such a manner as to impact directly on the care of patients or the public. Type B Civil Penalties may be assessed in the amount of not less than \$100 and not more than \$500.

3. Type C Civil Penalty - may be imposed whenever the Committee finds the person required to be licensed, certified, permitted, or authorized by the Committee guilty of a violation of the Physical Therapy Practice Act or regulations promulgated pursuant thereto, which are neither directly

detrimental to patients or the public, nor directly impact their care, but have only an indirect relationship to patient care or the public. Type C Civil Penalties may be assessed in the amount of not less than \$50 and not more than \$100.

Continuing Competence (1150-1-.12)

(1) The requirements for continuing competence are defined as planned learning experiences which occur beyond the entry level educational requirements for physical therapists and physical therapist assistants. Content of the experience must relate to physical therapy whether the subject is intervention, examination, research, documentation, education, management, or some other content area.

(2) For applicants approved for initial licensure by examination, successfully completing the requirements of Rules 1150-1-.04, .05, and .08, shall be considered proof of sufficient competence to constitute compliance with this rule for the initial period of licensure except for the ethics and jurisprudence education requirements of paragraph (4). Applicants approved for initial licensure by examination must successfully complete four (4) hours of ethics and jurisprudence education during their initial period of licensure

(3) Two (2) Year Requirement (January 1-December 31) - Continuing competence credit is awarded for the clock hours spent in an activity. All required hours may be met through Class I activities.

(a) Physical Therapist - Thirty (30) hours are required for the two (2) calendar years (January 1-December 31) that precede the licensure renewal year.

1. At least twenty (20) hours of the thirty (30) hour requirement must be from Class I activities as provided in paragraph (5).
2. Up to ten (10) hours of the thirty (30) hour requirement may be from Class II activities as provided in paragraph (6).

(b) Physical Therapist Assistant - Twenty (20) hours are required for the two (2) calendar years (January 1-December 31) that precede the licensure renewal year.

1. At least ten (10) hours of the twenty (20) hour requirement must be from Class I activities as provided in paragraph (5).
2. Up to ten (10) hours of the twenty (20) hour requirement may be from Class II activities as provided in paragraph (6).

(4) Four (4) of the hours required consist of ethics and jurisprudence education courses. These four (4) hours are required every other two (2) calendar year period.

(a) Jurisprudence – This course shall be a minimum of two (2) hours, shall be Class I continuing competence

(b) Ethics – This course shall be a minimum of two (2) hours, shall be Class I continuing competence

(c) Course approval – The Board does not pre-approve Class I and Class II continuing competence courses, programs, and activities required by paragraphs (3), (5) and (6). It is the licensee's responsibility, using his/her professional judgment, to determine if the courses being taken are applicable, appropriate, and meet the requirements of this rule. However, an ethics and jurisprudence course provider must seek the Board's course approval.

(5) **Class I acceptable continuing competence** evidence shall be any of the following:

(a) External peer review of practice with verification of acceptable practice by a recognized entity, e.g., American Physical Therapy Association. Continuing competence credit is twenty (20) hours per review with a maximum of one (1) review per biennium.

(b) Internal peer review of practice with verification of acceptable practice. Continuing competence credit is two (2) hours per review with a maximum of two (2) reviews during the two (2) year period.

(c) Courses, seminars, workshops, and symposia attended by the licensee which have been approved for continuing education units (CEUs) by appropriate CEU granting agencies.

(d) Courses, seminars, workshops, and symposia attended by the licensee and approved by recognized health-related organizations (e.g., American Physical Therapy Association, Tennessee Physical Therapy Association, Arthritis Foundation, etc.) or accredited physical therapy educational institutions (e.g., Chattanooga State Technical Community College, East Tennessee State University, etc.).

(e) Home study courses or courses offered through electronic media approved by recognized health-related organizations (e.g., American Physical Therapy Association, Tennessee Physical Therapy Association, Arthritis Foundation, etc.) or accredited physical therapy educational institutions (e.g., U.T. Center for the Health Sciences, Volunteer State Community College), and that include objectives and verification of satisfactory completion.

(f) University credit courses - Continuing competence credit is twelve (12) hours per semester credit hour.

(g) Participation as a presenter in continuing education courses, workshops, seminars or symposia which have been approved by recognized health-related organizations. Continuing competence credit is based on contact hours and may not exceed twenty (20) hours per topic.

(h) Authorship of a presented scientific poster, scientific platform presentation or published article undergoing peer review. Continuing competence credit is ten (10) hours per event with a maximum of two (2) events per biennium.

- (i) Teaching a physical therapy or physical therapist assistant credit course when that teaching is an adjunct responsibility and not the primary employment. Continuing competence credit is based on contact hours not to exceed twenty (20) hours. If the same course is taught more than once, contact hours may only be counted once.
- (j) Certification of clinical specialization by the American Board of Physical Therapy Specialties (ABPTS). Continuing competence credit is twenty-six (26) hours and is recognized only in the biennium in which certification or recertification is awarded.
- (k) Certification of clinical specialization by organizations other than the ABPTS (e.g. the McKenzie Institute, the Neuro Developmental Treatment Association, the Ola Grimsby Institute, etc.) may be recognized as continuing competence credit for up to twenty-six (26) hours, in the biennium in which certification or recertification is awarded. The number of continuing competence credit hours awarded is determined by the Board.
- (l) Awarding of an advanced degree from an accredited University. Continuing competence credit is twenty-six (26) hours and is recognized only in the biennium in which certification or recertification is awarded.
- (m) Participating in a clinical residency program. Continuing competence credit is five (5) hours credit for each week of residency with a maximum of twenty-six (26) hours per program.

(6) Class II acceptable continuing competence evidence shall be any of the following

- (a) Self-instruction from reading professional literature. Continuing competence credit is limited to a maximum of one (1) hour each biennium.
- (b) Attendance at a scientific poster session, lecture, panel or symposium that does not meet the criteria for Class I. Continuing competence credit is one (1) hour per hour of activity with a maximum of two (2) hours credit each biennium.
- (c) Serving as a clinical instructor for an accredited physical therapist or physical therapist assistant educational program. Continuing competence credit is one (1) hour per sixteen (16) contact hours with the student(s).
- (d) Acting as a clinical instructor for physical therapist participating in a residency program or as a mentor for a learner for a formal, nonacademic mentorship. Continuing competence credit is one (1) hour per sixteen (16) contact hours.
- (e) Participating in a physical therapy study group consisting of two (2) or more physical therapists or physical therapist assistants. Continuing competence credit is limited to a maximum of one (1) hour credit per biennium.
- (f) Attending and/or presenting in-service programs. Continuing competence credit is one (1) hour per eight (8) contact hours with a maximum of four (4) hours credit per biennium.
- (g) Serving the physical therapy profession as a delegate to the APTA House of Delegates, on a professional board, committee, or task force.

Continuing competence credit is limited to a maximum of one (1) hour credit per biennium.

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

(a) Attending courses regarding:

1. Regulations of the United States Department of Labor's Occupational Safety and Health Administration (OSHA);
2. Regulations of the Tennessee Department of Labor and Workforce Development's Division of Occupational Safety and Health (TOSHA);
3. Cardiopulmonary resuscitation (CPR); and
4. Safety;

(b) Meetings for purposes of policy decisions;

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

(d) Entertainment or recreational meetings or activities; and

(e) Visiting exhibits.

(8) Documentation of compliance

(a) Each licensee must retain documentation of completion of all continuing competence requirements of this rule for a period of five (5) years from when the requirements were completed. This documentation must be produced for inspection and verification, if requested in writing by the Board during its verification process.

Scope of Practice (63-13-109(b) & 63-13-303)

(b) (1) The scope of practice of physical therapy shall be under the written or oral referral of a licensed doctor of medicine, chiropractic, dentistry, podiatry or osteopathy, with exceptions as stated in § 63-13-303.

(2) The scope of practice of physical therapy shall not include the performance of treatment where the physical therapist or physical therapist assistant uses direct thrust to move a joint of the patient's spine beyond its normal range of motion without exceeding the limits of anatomical integrity.

(a) The practice of physical therapy shall be under the written or oral referral of a licensed doctor of medicine, chiropractic, dentistry, podiatry or osteopathy, except for the following:

(1) A licensed physical therapist may conduct an initial evaluation of a patient without referral;

(2) A licensed physical therapist may provide physical assessments or instructions, including a recommendation of exercise to an asymptomatic person, without the referral of a referring practitioner;

(3) In emergency circumstances, including minor emergencies, a licensed physical therapist may provide assistance to a person to the best of a therapist's ability without the referral of a referring practitioner. Except as outlined in subdivision (a)(4) below, the physical therapist shall refer such person to the appropriate health care practitioner, as indicated, immediately after providing assistance. For the purposes of this subdivision (a)(3):

(A) "Emergency circumstances" means instances where emergency medical care is required; and

(B) "Emergency medical care" means bona fide emergency services provided after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:

- (i) Placing the patient's health in serious jeopardy;
- (ii) Serious impairment to bodily functions; or
- (iii) Serious dysfunction of any bodily organ or part; and

(4) A licensed physical therapist may treat a patient without a referral when all of the following apply:

(A) When a patient provides the name of a licensed doctor of medicine, chiropractic, dentistry, podiatry or osteopathy and expressly wants the physical therapist to inform such physician, the physical therapist shall inform the patient's licensed doctor of medicine, chiropractic, dentistry, podiatry or osteopathy not later than five (5) business days after the evaluation. A consultation shall occur between the physical therapist and the patient's licensed doctor of medicine, chiropractic, dentistry, podiatry or osteopathy within the first six (6) visits or fifteen (15) business days, whichever comes first, of the findings of the patient's initial visit for physical therapy and any subsequent visits. Should that consultation not take place, no further therapy beyond the six (6) visits or fifteen (15) days, whichever comes first, will be delivered;

(B) Where a patient does not provide the name of a licensed doctor of medicine, chiropractic, dentistry, podiatry or osteopathy or expressly states to the therapist that the patient does not want a licensed doctor of medicine, chiropractic, dentistry, podiatry or osteopathy informed of the initiation of therapy services, the therapist shall have the patient sign a consent form that confirms the patient either does not have a licensed doctor of medicine, chiropractic, dentistry, podiatry or osteopathy or does not want a licensed doctor of medicine, chiropractic, dentistry, podiatry or osteopathy informed of the initiation of therapy treatment. Such consent form shall be maintained in the patient's record;

(C) If the patient presents to the physical therapist for a problem for which the patient has been seen by a licensed doctor of medicine, chiropractic, dentistry,

podiatry or osteopathy within the past twelve (12) months, the consent of the patient is not necessary to inform that licensed doctor of medicine, chiropractic, dentistry, podiatry or osteopathy of the presentation for the physical therapy treatment. If the patient has no licensed doctor of medicine, chiropractic, dentistry, podiatry or osteopathy, then the physical therapist shall make a suggestion from the list of available providers and shall inform the patient of the forty-five (45) day limitation in subdivision (a)(4)(E);

(D) If the physical therapist determines, based on reasonable evidence, that no substantial progress has been made with respect to that patient within fifteen (15) calendar days or six (6) visits, whichever occurs first, immediately following the date of the patient's initial visit with the physical therapist, the physical therapist shall not provide any additional physical therapy services and shall refer the patient to a licensed physician, doctor of chiropractic, dentist, podiatrist or osteopath. If the patient previously was diagnosed with chronic, neuromuscular, or developmental conditions by a physician, doctor of chiropractic, dentist, podiatrist or osteopath and the evaluation, treatment or services are being provided for problems or symptoms associated with one (1) or more of those previously diagnosed conditions, then the provisions of this subdivision (a)(4)(D) do not apply. If a patient returns to the physical therapist within ninety (90) days of treatment with the same complaint, then the physical therapist shall make an immediate referral to the appropriate health care provider;

(E) When a patient's licensed doctor of medicine, chiropractic, dentistry, podiatry or osteopathy has not been notified of the physical therapy services, under no circumstances should therapy services continue beyond thirty (30) days immediately following the date of the patient's first visit;

(F) (i) It shall be considered unprofessional conduct for the purposes of § 63-13-312 for a physical therapist to knowingly initiate services for the same complaint for which a patient:

(a) Has started therapy services but another therapist did not inform a licensed doctor of medicine, chiropractic, dentistry, podiatry or osteopathy within five (5) business days of the initial evaluation in accordance with Section 2(a)(4)(A); or

(b) Has reached the fifteen (15) day and six (6) visit limit imposed by subdivision (a)(4)(D) where no substantial progress has been made from another physical therapist; or

(c) Has reached the thirty (30) day limit imposed by subdivision (a)(4)(E).

(ii) The provisions of this subdivision (a)(4)(F) do not apply if a referral from a licensed doctor of medicine, chiropractic, dentistry, podiatry or osteopathy is made; and

(G) If, at any time, the physical therapist has reason to believe that the patient has symptoms or conditions that require treatment or services beyond the scope of practice of a physical therapist, the physical therapist shall refer the patient to a licensed health care practitioner acting within the practitioner's scope of practice.

(b) No person shall practice physical therapy other than upon the referral of a patient by a person who is licensed in this or another state to practice medicine, chiropractic, dentistry, osteopathic medicine, or podiatric medicine, within the scope of such practices, and whose license is in good standing and who holds a CPR certificate, or its equivalent, unless one of the following conditions is met:

(1) The person holds a master's or doctorate degree from a professional physical therapy program that is accredited by a national accreditation agency recognized by the United States Department of Education and by the board of physical therapy and the person has completed at least one (1) year of experience as a licensed physical therapist;

(2) The person has successfully completed a residency or clinical fellowship in physical therapy at a program approved by the board; or

(3) (A) The person has completed at least three (3) years of experience as a licensed physical therapist; and (B) The person has completed a course approved by the board of physical therapy and offered by an accredited university of at least fifteen (15) hours, designed to enable the physical therapist to identify signs and symptoms of systemic disease, particularly those that can mimic cardiological, neurological, oncological, or musculoskeletal disorders, and to recognize conditions that require timely referral to a physician, dentist, osteopath, podiatrist or chiropractor.

Supervision Requirements (1150-1-.02)

Supervision of Licensed Physical Therapist Assistants

Supervision, as applied to the licensed physical therapist assistant, means that all services must be performed under the supervision of a physical therapist licensed and practicing in Tennessee.

1. The licensed physical therapist shall perform the initial evaluation of the patient with the development of a written treatment plan, including therapeutic goals, frequency and time period of services.

2. The licensed physical therapist shall perform and document re-evaluations, assessments, and modifications in the treatment plan at least every thirty (30) days. For patients seen longer than sixty (60) days, the licensed physical therapist shall inspect the actual act of therapy services rendered at least every sixty (60) days.

3. The licensed physical therapist may not supervise a physical therapist assistant that is delivering services at a site further than sixty (60) miles or one (1) hour from the licensed physical therapist. The supervising licensed physical therapist must be available to communicate by telephone or other means whenever the physical therapist assistant is delivering services.

4. The discharge evaluation must be performed and the resulting discharge summary must be written by the licensed physical therapist.

5. The licensed physical therapist and the physical therapist assistant shall be equally responsible and accountable for carrying out the provisions of this subparagraph.

(c) A physical therapist may concurrently supervise no more than the equivalent of three (3) full-time physical therapist assistants.

Supervision of Physical Therapy Assistive Personnel / Others

1. A physical therapist may use physical therapy aides for designated tasks that do not require clinical decision making by the licensed physical therapist or clinical problem solving by the licensed physical therapy assistant. Direct supervision must apply to physical therapy aides and is interpreted to mean that services are provided under the supervision of an on-site physical therapist or physical therapist assistant licensed and practicing in Tennessee.

2. A physical therapist may use other assistive personnel for selected physical therapy designated tasks consistent with the training, education, or regulatory authority of such personnel. Other assistive personnel (nationally certified exercise physiologists or certified athletic trainer and massage therapists, etc) must perform the delegated task under the on-site supervision of a physical therapist. The physical therapist shall then co-sign all related documentation in the patient records.

3. "On-site supervision" means the supervising physical therapist or physical therapist assistant must:

- (i) Be continuously on-site and present in the department or facility where assistive personnel are performing services; and
- (ii) Be immediately available to assist the person being supervised in the services being performed; and
- (iii) Maintain continued involvement in appropriate aspects of each treatment session in which a component of treatment is delegated to assistive personnel.

A physical therapist may concurrently supervise no more than the equivalent of two (2) full-time assistive personnel or physical therapy aides. A physical

therapist assistant may concurrently supervise no more than the equivalent of two (2) full-time physical therapy aides.

(d) Physical therapists and physical therapist assistants shall provide direct on-site supervision of volunteers. Volunteers may not provide physical therapy to patients.

(e) A physical therapist shall provide on-site supervision to physical therapy clinical students at all times and will be in accordance with the APTA guidelines for clinical education which suggest a minimum of one (1) year of licensed clinical experience prior to functioning as a clinical instructor for physical therapist students.

(f) A physical therapist assistant shall provide on-site supervision to physical therapist assistant clinical students at all times and will be in accordance with the APTA guidelines for clinical education which suggest a minimum of one (1) year of licensed clinical experience prior to functioning as a clinical instructor for physical therapist assistant students.

Disclosure and Confidentiality (63-13-317)

(a) Physical therapists must inform the patient of any financial arrangements connected to the referral process.

(b) Physical therapists must disclose in writing any financial interest in products they endorse and recommend to their patients.

(c) Physical Therapists have the responsibility to ensure that the patient has knowledge of freedom of choice in services and products.

(d) 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 written consent of the patient. The physical therapist-patient confidentiality does not extend to cases in which the physical therapist has a duty to report information as required by law.

(e) Any person may submit a complaint regarding any licensee or any other person potentially in violation of this chapter. Confidentiality shall be maintained subject to law.

(f) The department must keep all information relating to the receiving and investigation of complaints filed against licensees confidential until the information becomes public record as required by law.

(g) Each licensee shall display a copy of the licensee's license or current renewal verification in a location accessible to public view at the licensee's place of employment.

Consumer Right to Know Requirements (1150-1-.20)

Malpractice reporting requirements

The threshold amount below which medical malpractice judgments, awards or settlements in which payments are awarded to complaining parties need not be reported pursuant to the "Health Care Consumer Right-To-Know Act of 1998" shall be ten thousand dollars (\$10,000).

Criminal conviction reporting requirements

For purposes of the "Health Care Consumer Right-To-Know Act of 1998", the following criminal convictions must be reported:

1. Conviction of any felony.
2. Conviction or adjudication of guilt of any misdemeanor, regardless of its classification, in which any element of the misdemeanor involves any one or more of the following:
 - A. Sex.
 - B. Alcohol or drugs.
 - C. Physical injury or threat of injury to any person.
 - D. Abuse or neglect of any minor, spouse or the elderly.
 - E. Fraud or theft.

If any misdemeanor conviction reported under this rule is ordered expunged, a copy of the order of expungement signed by the judge must be submitted to the Department before the conviction will be expunged from any profile.

The Lawful Use of PT and PTA Titles (63-13-310)

A physical therapist must use the letters "PT" in connection with their name or place of business to denote licensure. It is illegal for any person, or for any business entity to use the words, "physical therapy," "physical therapist," "physiotherapy," "physiotherapist," "registered physical therapist," "licensed physical therapist," or the letters "PT," "LPT," "RPT," or any other words, abbreviations or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied, including the billing of services labeled as physical therapy, unless such services are provided by or under the direction of a licensed physical therapist.

A physical therapist assistant must use the letters "PTA" in connection with their name to denote licensure. It is illegal to use the title "physical therapist assistant" and use the letters "PTA" in connection with the person's name, or any other

words, abbreviations or insignia indicating or implying, directly or indirectly, that a person is a physical therapist assistant unless the person is licensed as a physical therapist assistant.

Release of Client Records (1150-1-.18)

Upon request from a client or the client's authorized representative, licensees must provide a complete copy of the client's records or summary of such records which were maintained by the provider. It shall be the provider's option as to whether copies of the records or a summary will be given to the client. The requests for records must be honored by the provider in a timely manner; and the individual requesting the records shall be responsible for payment of reasonable costs to the provider for copying and mailing of the records.

Policy Statements of the Tennessee Board of Physical Therapy

Consent Forms Without Referral

1. The Physical Therapist providing "direct access services" shall have a patient sign an informed consent form that states one of the following:
 - (a) The patient does not have a licensed doctor of medicine, chiropractor, dentist, podiatrist, or doctor of osteopathic medicine for the treating injury, OR
 - (b) The patient chooses direct access to physical therapy services and forgoes the right to have a licensed doctor of medicine, chiropractor, dentist, podiatrist, or doctor of osteopathic medicine informed of the initiation of physical therapy treatment.

Physical Therapy Discharge Evaluations/Plans/Summaries

Patients receiving physical therapy are often discharged from a facility with little or no notice to the Physical Therapy department. In those situations where a patient's discharge is outside the control of a physical therapist, a discharge evaluation cannot be performed and a formal discharge summary presents multiple logistical problems.

The physical therapy portion of the medical record is in compliance with TCA 63-13-312. (20) when it includes the following:

- patient identification
- physical therapy evaluation
- physical therapy treatment diagnosis
- plan of care including desired outcomes
- treatment record
- results of interventions
- discharge plan

A discharge evaluation/plan/summary, or evaluation is required for every physical therapy record.

Direct Access to Physical Therapy

In order to provide physical therapy without a prior referral, a physical therapist must meet the requirements of Tenn. Code Ann. § 63-13-303(b), including being licensed in good standing and having current CPR certification, or its equivalent.

The physical therapist must also either:

1. Hold a master's or doctorate degree from a professional physical therapy program that is accredited by a national accreditation agency recognized by the U.S. Department of Education and by the Board of Physical Therapy. The physical therapist must also have completed at least one (1) year of experience as a licensed physical therapist. (Tenn. Code Ann. § 63-13-303(b)(1) or
2. Have successfully completed a residency or clinical fellowship in physical therapy at a program approved by the Board of Physical Therapy. (Tenn. Code Ann. § 63-13-303(b)(2) The Board of Physical Therapy has approved fellowships and residencies approved by the American Physical Therapy Association and the Academy of Orthopedic Manual Physical Therapists. or
3. Have completed at least three (3) years of experience as a licensed physical therapist and successfully completed a physical therapy screening course that is approved by the Board of Physical Therapy and offered by an accredited university that consists of at least fifteen (15) contact hours. (Tenn. Code Ann. § 63-13-303(b)(3) The Board of Physical Therapy has approved the following courses:
 - a. Any physical therapy screening course offered by an accredited university.
 - b. Any physical therapy screening course that meets the following criteria:
 - i. The course consists of at least fifteen (15) contact hours and is taught by health professionals who hold a regular or clinical faculty appointment in a physical therapy educational program.
 - ii. The course identifies that signs and symptoms of systemic disease that are not appropriate for physical therapy intervention without prior examination by a primary health care practitioner, including the signs and symptoms of cancer and diseases of the cardiopulmonary, neurological, and musculoskeletal systems.
 - iii. The course teaches participants the decision-making process for determining when patients/clients require further examination or consultation by a physical therapist or referral to another health care practitioner.
 - iv. The course integrates the process of making an appropriate and timely referral to another health care provider into the physical therapy examination and evaluation.

Monitoring of Home Health Aides

The monitoring of home health aides by physical therapy practitioners is not in itself a violation of the physical therapy practice act (Tenn. Code Ann. § 63-13-301 et seq.) and rules (Tenn. Comp. R. & Regs. 1150-1) if no other ethical or practice violations are present.

Continuing Competence

A Physical Therapist and Physical Therapist Assistant in Tennessee are required to demonstrate continuing competence by obtaining a minimum number of continuing competence credits in the two (2) calendar years that precede the licensure renewal year.

For Physical Therapists, thirty (30) hours are required for the two (2) calendar years that precede the licensure renewal year. For Physical Therapist Assistants, twenty (20) hours are required for the two (2) calendar years that precede the licensure renewal year. (Please refer to the Board's rule Tenn. Comp. R. & Regs. 1150-1-.12 for complete information regarding the continuing education requirements.)

Should the Tennessee licensed Physical Therapist or Physical Therapist Assistant fail to comply with the continuing competence requirement for the two (2) calendar year period preceding the licensure renewal year, the following shall occur:

1. The licensee must pay a civil penalty in the amount of one hundred dollars (\$100.00). Payment must be rendered within thirty (30) days of notification from the Board.
2. The licensee must make up the amount of continuing competence credit hours that he/she is lacking. The deficient hours must be submitted with documented proof within sixty (60) days of notification from the Board.

Failure to comply with the continued competence requirement may result in disciplinary action. Failure to respond to a Board request for documentation or to make up deficient continuing competence credit hours after notification by the Board may result in disciplinary action. Licensees found to be in noncompliance with continuing competence requirements will be subject to a subsequent audit and cannot use continuing credit hours submitted for past deficient hours for current continuing competence compliance.

Renewal of Licensees Called to Active Military Duty

The Division shall allow special consideration for renewal of the licenses of military personnel who were called to active duty, and were unable to obtain required continuing education or to renew their license timely.

A. Any licensee who held an active license with Health Related Boards at the time he/she was called to active duty in the military of the United States, and was unable to renew that license while on active duty, shall notify the appropriate board office in writing.

1. The licensee shall submit a letter stating the reason for non-renewal of the license was active duty in the U.S. Military.
2. Dates and proof of service shall be submitted to the office by the licensee.

B. Upon receipt of notification and proof of active service, the licensee shall be allowed to renew the license with no late renewal or penalty fees added to the cost of renewal.

1. A copy of all documentation regarding notification and proof of active service shall be included in the permanent licensure file of the licensee.

C. A licensee whose license has been expired for one year or less shall not be required to complete required continuing education for renewal of the license at that time.

D. A licensee whose license has been expired for more than one year shall be required to obtain one-half of the required continuing education in order to have the license renewed.

Patient Referrals for Physical Therapy

Tennessee Code Annotated Section 63-6-204(a) defines what is considered to be included in the practice of medicine and then provides exceptions in subsection (b) to allow the health care professional to perform medical services that would otherwise require a license to practice medicine, as follows:

(b) Nothing in this chapter shall be so construed as to prohibit service rendered by a physician assistant, registered nurse or a licensed practical nurse if such service is rendered under the supervision, control and responsibility of a licensed physician. The relationship between supervising physicians and physician assistants, orthopedic physician assistants, and certified nurse practitioners who are registered nurses who have been certified by the board of Nursing pursuant to Tennessee Code Annotated §§ 63-7-123 and 63-207 (14) and issued a certificate of fitness by the Board of Nursing, is defined as follows:

The range of services which may be provided by a physician assistant [orthopedic physician assistant] shall be set forth in a written protocol, jointly developed by the supervising physician and the physician assistant [orthopedic physician assistant].

A physician assistant [orthopedic physician assistant] may perform only those tasks which are within the physician assistant's range of skill and competence, which are within the usual scope of practice of the supervising physician, and which are consistent with the protection of the health and well-being of the patients. A physician assistant shall function only under the control and responsibility of a licensed physician. The supervising physician has complete and absolute authority over any action of the physician assistant.

Additionally, Rules 0880-2-.18 (3), (5) and (6) provide as follows:

(3) A supervising physician and/or substitute supervising physician shall have experience and/or expertise in the same area of medicine as the physician assistant.

(5) Protocols are required and:

(a) shall be jointly developed and approved by the supervising physician and physician assistant;

(b) shall outline and cover the applicable standard of care;...

(6) The supervising physician shall be responsible for ensuring compliance with the applicable standard of care under (5). Additionally, the supervising physician shall develop protocols in collaboration and referral.

Likewise, rules 0880-6-.02 (3), (5) and (6) provide that:

(3) A supervising physician and/or substitute supervising physician shall have experience and/or expertise in the same area of medicine as the certified nurse practitioner.

(5) Protocols are required and:

(a) shall be jointly developed and approved by the supervising physician and nurse practitioner;

(b) shall outline and cover the applicable standard of care;...

(6) The supervising physician shall be responsible for ensuring compliance with the applicable standard of care

under (5). Additionally, the supervising physician shall develop clinical guidelines in collaboration with the certified nurse practitioner to include a method for documenting consultation and referral.

The Tennessee Board of Physical Therapy, regarding patient referrals for physical therapy, states the following as its policy:

Jointly developed protocols may include referral of patients for physical therapy if referrals to physical therapy are within the physician assistant's, orthopedic physician assistant's, or certified nurse practitioner's range of skill and competence, and such referrals are within the usual scope of practice of the supervising physician. Consequently, when referral for physical therapy is included in protocols, those referrals, if made by a physician assistant, orthopedic physician assistant, certified nurse practitioner, are considered referrals by supervision physicians, for the purposes contemplated by Tennessee Code Annotated, Sections 63-13-109 and 303 that require, in pertinent part, that *"The practice of physical therapy shall be under the written or oral referral of a licensed doctor of medicine..... or osteopathy.. .."*

Lapsed License

The Board of Physical Therapy recognizes that an individual may inadvertently allow his/her license to expire. However, statute prohibits an individual from working as a Physical Therapist or Physical Therapy Assistant unless he/she has an active and unrestricted license. While the Board does not condone an individual working on an expired license, recognition is given to the fact that the problem does exist. As such, the Board has adopted the following procedures for reinstatement of an expired or administratively revoked license.

- Immediately upon recognition that his/her license has expired, the individual must stop practicing and contract the board's administrative office to request a reinstatement application.
- Upon receipt of the reinstatement application, the individual is to complete the application in its entirety, providing a detailed work history since the license expiration date. The application is to be signed, notarized, and returned to the board's administrative office along with any additional information and all fees specified in the instructions.
- Upon receipt of a completed reinstatement application, supporting documentation, including continuing education, and fees, the board administrator

may immediately reinstate a license, which has been in an expired status for less than three months.

- If the reinstatement application received reflects in the work history that the individual has worked in excess of three months on an expired license, the board will present to the licensee, official notice which requires payment of a penalty in the amount of \$100 per month for every month worked in excess of three months from the expiration date.
- Failure to comply with this policy may result in disciplinary action.

Multidisciplinary Health Screening

The Board of Physical Therapy hereby adopts the following resolution relative to multidisciplinary health screenings:

The board resolves that health screenings in disciplines other than in one's scope of practice are unsafe to the public and may subject the licensee to disciplinary action by this board or possible malpractice litigation.

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Ethics & Jurisprudence – Tennessee Physical Therapy 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. Which of the following statements is TRUE:
 - A. All actions that are legal are also morally right.
 - B. All actions that are morally right are also legal.
 - C. Physical therapy ethics vary state by state.
 - D. The APTA Code of Ethics establishes ethical behavior for all physical therapists; including therapists who are not members of the APTA .
3. Ethical physical therapy practice is guided by _____
 - A. the three roles of physical therapist
 - B. the five realms of ethical action
 - C. the seven core values of the profession
 - D. personal interpretation
4. Which principles of the APTA's Code of Ethics are based on Integrity?
 - A. Principles 1, 3, 4, 7
 - B. Principles 2, 4, 7
 - C. Principles 1, 2, 3, 7
 - D. Principle 2, 3, 4, 7
5. Which of the following does NOT address conflict of interest?
 - A. Principle 3D of the APTA's Code of Ethics
 - B. Principle 7D of the APTA's Code of Ethics
 - C. Standard 7B of the APTA's Standard of Ethical Conduct for the Physical Therapist Assistant
 - D. Standard 8D of the APTA's Standard of Ethical Conduct for the Physical Therapist Assistant
6. Which of the following statements is TRUE?
 - A. "The TN Physical Therapy Practice Act" is written by the Tennessee legislature and is found in the Tennessee Code Annotated, Title 63, Chapter 13
 - B. "The TN Physical Therapy Practice Act" is written by the Tennessee Board of Physical Therapy Examiners and is found in Chapter 1150-1 of the TN Rules and Regulations.
 - C. "The TN General Rules Governing the Practice of Physical Therapy" is written by the Tennessee legislature and are found in the TN Code Annotated, Title 63, Chapter 13.
 - D. "The TN General Rules Governing the Practice of Physical Therapy" is written by the Tennessee Board of Physical Therapy Examiners and is found in the TN Code Annotated, Title 63, Chapter 13.

7. Which of the following is an offense that may lead to disciplinary action by the TN Board of Physical Therapy Examiners (as defined by the TN PT Practice Act)?
- A. Provision of substandard care that does not result in patient injury.
 - B. Engaging in consensual sexual communication with a patient.
 - C. Failure to include a physical therapy treatment diagnosis in patient records.
 - D. All of the above.
8. Which of the following is FALSE regarding physical therapy treatment without referral?
- A. When a patient provides the name of a licensed doctor of medicine, chiropractic, dentistry, podiatry or osteopathy and expressly wants the physical therapist to inform such physician, the physical therapist shall inform the patient's licensed doctor of medicine, chiropractic, dentistry, podiatry or osteopathy not later than five (5) business days after the evaluation.
 - B. A consultation shall occur between the physical therapist and the patient's licensed doctor of medicine, chiropractic, dentistry, podiatry or osteopathy within the first five (5) visits or ten (10) business days, whichever comes first, of the findings of the patient's initial visit for physical therapy and any subsequent visits.
 - C. Where a patient does not want a licensed doctor of medicine, chiropractic, dentistry, podiatry or osteopathy informed of the initiation of therapy services, the therapist shall have the patient sign a consent form that confirms the patient does not want a licensed doctor of medicine, chiropractic, dentistry, podiatry or osteopathy informed of the initiation of therapy treatment.
 - D. When a patient's licensed doctor of medicine, chiropractic, dentistry, podiatry or osteopathy has not been notified of the physical therapy services, under no circumstances should therapy services continue beyond thirty (30) days immediately following the date of the patient's first visit.
9. Which of the following is TRUE regarding supervision of physical therapy services?
- A. All services performed by a physical therapist assistant must be under the supervision of either a Tennessee licensed physical therapist or a Tennessee licensed physician.
 - B. A licensed physical therapist may not supervise a PTA that is delivering services at a site further than 60 miles or one hour from the physical therapist.
 - C. Volunteers are classified as "other assistive personnel" and may perform delegated therapy services only when under the direct onsite supervision of a physical therapist.
 - D. All of the above are true.
10. Which of the following statements is FALSE according to the policy statements of the Tennessee Board of Physical Therapy?
- A. A discharge evaluation/plan/summary, or evaluation is required for every physical therapy record.
 - B. Physical Therapists with a master's degree and current CPR certification who have practiced for at least one year may provide physical therapy services without a prior referral.
 - C. It is a violation of the Tennessee Physical Therapy Practice Act (TCA 63-13-301) for a physical therapist to monitor home health aides
 - D. Tennessee licensed physical therapy professionals who fail to comply with continuing competence requirements must pay a civil penalty of \$100 within 30 days of Board notification; and must make up the lacking continuing competence hours within 60 days of Board notification.