Ethics – Ohio Occupational Therapy

Goals & Objectives

Course Description
"Ethics – Ohio Occupational Therapy" is an asynchronous online continuing education program for Ohio licensed occupational therapists and occupational therapy assistants. The course focuses on defining moral, ethical, and legal behavior of Ohio licensed occupational therapy professionals. The information presented includes discussions on the theoretical basis for ethical decision-making, the Occupational Therapy Code of Ethics and hypothetical case studies.

Course Rationale
This course was developed to educate, promote, and facilitate ethical and legal behavior by Ohio licensed occupational therapists and occupational therapy assistants, and is intended to meet the Ethics requirement as mandated by 4755-9-01 of the Ohio Administrative Code.

Course Goals & Objectives
At the end of this course, the participants will be able to:

1. Define the meaning of ethics and recognize the various theories that promote ethical behavior.
2. Apply a systematic approach to ethical decision-making.
3. Recognize the principles of ethical conduct as defined by the established and accepted Occupational Therapy Code of Ethics
4. Assess their current professional practices to ensure ethical conduct
5. Apply the concepts of ethical practice to clinical situations to determine appropriate professional ethical behavior.

Course Provider – Innovative Educational Services

Provider Contact Information – information@cheapceus.com

Course Instructor – Michael Niss, DPT

Financial/Non-financial Disclosure - Neither the Provider nor the instructor have any financial or non-financial conflict of interest related to the presentation of this CE program.

Target Audience – Occupational Therapists, Occupational Therapy Assistants

OT Scope of Practice – Professional Issues

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

Course Prerequisites – None

Method of Instruction – Distance Learning – Independent; Asynchronous online text-based home study

Location - Cheapceus.com

Date – Continuously available on-demand

Course Completion Requirements / Criteria for Issuance of CE Credits – Completion of instructional materials and a score of 70% or greater on the course post-test.

Continuing Education Credits – One (1) contact hour / .1 AOTA CEU / NBCOT 1.25 PDUs

Course Fee - $4.95

Registration Information – No pre-registration required; available on-demand at Cheapceus.com

Special Needs Requests – Email: information@cheapceus.com or phone: 954-663-4101

Cancellation by the Learner – Learners may cancel their participation at any time and receive a full refund of all paid fees.

Cancellation by the Provider – Registrants for the cancelled activity will be contacted by an IES staff member via phone call or email within 12 hours of the cancellation decision. If the decision to cancel is made less than 14 hours prior to the event, each participant will be contacted no later than 2 hours prior to the scheduled start time of the activity. Registrants will receive a full refund if an activity is cancelled by the Provider. The refund will be processed back to the Registrant within 12 hours of the cancellation.

Complaint Resolution – Please call 954-663-4101 (24 hours/day, 7 days/week) to speak with a live customer service agent. Our goal is to work with our customers to resolve all issues to the customer's satisfaction with just one phone call whenever possible.

Refund Policy - Unrestricted 100% refund upon request. The request for a refund by the learner shall be honored in full without penalty or other consideration of any kind. The request for a refund may be made by the learner at any time without limitations before, during, or after course participation.

Innovative Educational Services is an AOTA Approved Provider of professional development. PD activity approval ID# 5471. This Distance Learning – Independent PD activity is offered at .1 CEU; Introductory; OT Professional Issues. The assignment of AOTA CEUs does not imply endorsement of specific course content, products, or clinical procedures by AOTA.

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Course Outline

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Ethics Overview

The word “ethics” is derived from the Greek word *ethos* (character). 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 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
Utilitarianism is the theory that right and wrong is determined by the consequences. The basic tool of measurement is pleasure or happiness. A morally correct rule is one that provides the greatest good to the greatest number of people.

Social Contract Theory
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.

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.

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 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 was a famous exponent of this view. Aristotle felt that virtue ethics was the way to attain true happiness. These are some of the commonly accepted virtues.

- **Autonomy:** the duty to maximize the individual's right to make his or her own decisions.
- **Beneficence:** the duty to do good.
- **Confidentiality:** the duty to respect privacy of information.
- **Finality:** the duty to take action that may override the demands of law, religion, and social customs.
- **Justice:** the duty to treat all fairly, distributing the risks and benefits equally.
- **Nonmaleficence:** the duty to cause no harm.
- **Understanding/Tolerance:** the duty to understand and to accept other viewpoints if reason dictates.
- **Respect for persons:** the duty to honor others, their rights, and their responsibilities.
- **Universality:** the duty to take actions that hold for everyone, regardless of time, place, or people involved.
- **Veracity:** the duty to tell the truth.

How to Make Right Decisions

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

Are my actions legal?
Weighing the legality of one's actions is a prudent way to begin the decision-making process. The laws of a geopolitical 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 law enforcement officers 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.

Are my actions ethical?
Professional ethical behavior as it is defined in this context relates to actions that are consistent with the normative standards established or practiced by others in the same profession. For occupational therapists and occupational therapist assistants, acceptable ethical practice is documented in the AOTA's Code of Ethics. All OTs and OTAs, even those who are not members of the AOTA, are expected to follow the AOTA guidelines because its Code of Ethics has been established as the accepted and de facto standard of practice throughout the profession.

Are my actions 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.

Would my actions be the same if they were transparent to others?
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.

AOTA Code of Ethics

The Code of Ethics is an AOTA Official Document and a public statement tailored to address the most prevalent ethical concerns of the occupational therapy profession. It outlines Standards of Conduct the public can expect from those in the profession. It should be applied to all areas of occupational therapy and shared with relevant stakeholders to promote ethical conduct. All occupational therapy personnel, including students in occupational therapy programs, are expected to abide by the Code of Ethics. The Code is based on the following six Principles; and is intended to guide ethical decision making and inspire occupational therapy personnel to act in accordance with the highest ideals.

Principle 1: Beneficence - Occupational therapy personnel shall demonstrate a concern for the well-being and safety of persons.

Principle 2: Nonmaleficence – Occupational therapy personnel shall refrain from actions that cause harm.

Principle 3: Autonomy - Occupational therapy personnel shall respect the right of the person to self-determination, privacy, confidentiality, and consent.

Principle 4: Justice - Occupational therapy personnel shall promote equity, inclusion, and objectivity in the provision of occupational therapy services.

Principle 5: Veracity - Occupational therapy personnel shall provide comprehensive, accurate, and objective information when representing the profession.

Principle 6: Fidelity - Occupational therapy personnel shall treat clients (persons, groups, or populations), colleagues, and other professionals with respect, fairness, discretion, and integrity.

The AOTA Code of Ethics was updated in 2020 and is available at:
https://www.aota.org//media/Corporate/Files/Practice/Ethics/AOTA-2020-Code-of-Ethics.pdf

Ohio Occupational Therapy Code of Ethical Conduct

The following is an abridged version of the current Ohio Occupational Therapy Code of Ethical Conduct (Chapter 4755-7-08 of the Ohio Administrative Code). To read the Ohio Code of Ethical Conduct in its entirety, please go to: https://otptat.ohio.gov/Portals/0/OT%20Laws%20and%20Rules%2008-15-2020.pdf?ver=Wz33DiK32QB1yVeeUxuJwg%3d%3d

The Occupational Therapy Section of the Ohio Board of Occupational Therapy, Physical Therapy, and Athletic Training Board has developed and published its own Code of Ethics. This Code of Ethical Conduct is found in Chapter 4755-7-08 of the Ohio Administrative Code.

4755-7-08 Code of Ethical Conduct.

A. **Operations.** These are guidelines for promoting ethical integrity and professionalism.
   1. Licensees must familiarize themselves with, seek to understand, and comply with the laws and rules governing the practice of occupational therapy.
   2. Licensees shall remain abreast of revisions in the laws and rules governing the practice of occupational therapy and shall inform employers, employees, and colleagues of those revisions.
   3. Licensees must achieve and continually maintain high standards of competence by doing the following: (a) Maintain and document competency by participating in professional development, continuing competence, and other education activities. (b) Critically examine and keep current with emerging knowledge relevant to the practice of occupational therapy. A licensee shall not perform or attempt to perform

techniques and/or procedures in which the licensee is untrained by education or experience.
4. An individual must not practice occupational therapy without a valid license, or without holding student status, including: (a) Practicing occupational therapy while an individual's license is suspended or revoked. (b) Practicing occupational therapy with an expired license or when no longer enrolled as a student in an accredited occupational therapy educational program.
5. Licensees must ensure that an individual supervised or directed by the licensee possesses a valid license or is a student occupational therapist or student occupational therapy assistant.
6. Licensees must not aid, abet, authorize, condone, or allow the practice of occupational therapy by any person not legally authorized to provide services.
7. An applicant or licensee must not cheat or assist others in conspiring to cheat on the certification examination or the state jurisprudence examination.
8. Licensees must not permit another person to use an individual's wall certificate, license number, or national provider identifier for any illegal purpose.
9. Licensees must report to the occupational therapy section any unprofessional, incompetent, or illegal behavior of an occupational therapist or occupational therapy assistant of which the licensee has knowledge.

B. **Professionalism of licensee.** Professionalism of the licensee includes conforming to the minimal standards of acceptable and prevailing occupational therapy practice, including practicing in a manner that is moral and honorable. Conduct may be considered unethical regardless of whether or not actual injury to a client occurred.
1. A licensee must not: (a) Forge the signature of other practitioners. (b) Forge a wall certificate or any other proof of current licensure.
2. An occupational therapy assistant must not provide occupational therapy services without a supervising occupational therapist.
3. All occupational therapy documentation, including, but not limited to, evaluations, assessments, intervention plans, treatment notes, discharge summaries, and transfers of care must be in written or electronic format.
4. A licensee must not falsify, alter, or destroy client records, medical records, or billing records without authorization. The licensee shall maintain accurate client and/or billing records.
5. A licensee must not deliver, obtain, or attempt to obtain medications through means of misrepresentation, fraud, forgery, deception, and/or subterfuge.
6. A licensee must not initiate, participate in, or encourage the filing of complaints against colleagues that are unwarranted or intended to harm another practitioner.

7. A licensee must not practice occupational therapy while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability. If a licensee's or applicant's ability to practice is in question, the licensee or applicant shall submit to a physical or mental examination or drug/alcohol screen as requested by the occupational therapy section to determine the applicant's or licensee's qualifications to practice occupational therapy.
8. A licensee must preserve, respect, and safeguard confidential information about colleagues, staff, and students, unless otherwise mandated by national, state, or local laws.
9. A licensee shall exercise sound judgment and act in a trustworthy manner in all aspects of occupational therapy practice. Regardless of practice setting, the occupational therapy practitioner shall maintain the ability to make independent judgments. A licensee must strive to effect changes that benefit the client.
10. A licensee shall accurately represent the qualifications, views, contributions, and findings of colleagues and students.
11. A licensee must not misrepresent the credential, title, qualifications, education, experience, training, and/or specialty certifications held by the licensee.
12. An individual licensed by the occupational therapy section has a responsibility to report any organization or entity that holds itself out to deliver occupational therapy services that places the licensee in a position of compromise with this code of ethical conduct.
13. A licensee must provide appropriate supervision to individuals for whom the practitioner has supervisory responsibility.
14. A licensee must only seek compensation that is reasonable for the occupational therapy services delivered. A licensee shall never place the licensee's own financial interests above the welfare of the licensee's clients. A licensee, regardless of the practice setting, shall safeguard the public from unethical and unlawful business practices.
15. A licensee must adhere to the minimal standards of acceptable prevailing practice. Failure to adhere to minimal standards of practice, whether or not actual injury to a client occurred, includes, but is not limited to: (a) Documenting or billing for services not actually performed. (b) Performing techniques/procedures in which the licensee cannot demonstrate and document competency, either by experience or education. (c) Practicing in a pattern of negligent conduct, which means a continued course of negligent conduct or of negligent conduct in performing the duties of the profession. (d) Delegating occupational therapy functions or responsibilities to an individual lacking the ability or knowledge to perform the function or responsibility in question. (e) Failing to ensure that duties assumed by or assigned to other occupational therapy practitioners match credentials, qualifications, experience, and scope of practice.
16. A licensee must respect the rights, knowledge, and skills of colleagues and other health care professionals.

17. A licensee must not use or participate in the use of any form of communication that contains false, fraudulent, deceptive, or unfair statements or claims.

C. **Licensee and client interactions.** The licensee must demonstrate concern for the well-being of the client.
    1. A licensee must adhere to the minimal standards of acceptable prevailing practice. Failure to adhere to minimal standards of practice, whether or not actual injury to a client occurred, includes, but is not limited to: (a) Failing to assess and evaluate a client's status or establishing an occupational therapy intervention plan prior to commencing treatment/intervention of an individual client. (b) Providing treatment interventions that are not warranted by the client's condition or continuing treatment beyond the point of reasonable benefit to the client. (c) Providing substandard care as an occupational therapy assistant by exceeding the authority to perform components of interventions selected by the supervising occupational therapist. (d) Abandoning the client by inappropriately terminating the practitioner-client relationship by the licensee. (e) Causing, or permitting another person to cause, physical or emotional injury to the client, or depriving the client of the individual's dignity.
    2. A licensee must transfer the care of the client, as appropriate, to another health care provider in either of the following events: (a) Elective termination of occupational therapy services by the client; or (b) Elective termination of the practitioner-client relationship by the licensee.
    3. A licensee must ensure the client's rights to participate fully in the client's care, including the client's right to select the occupational therapy provider, regardless of the practice setting.
    4. A licensee must respect the individual's right to refuse professional services or involvement in research or educational activities.
    5. A licensee must disclose any professional, personal, financial, business, or volunteer affiliations that may pose a conflict of interest to those with whom the licensee may establish a professional, contractual, or other working relationship.
    6. A licensee shall not influence a client or the client's family to utilize, purchase, or rent any equipment based on direct or indirect financial interests of the licensee. Recommendations of equipment must be based solely on the therapeutic value of that equipment to the client. A licensee who owns or has a direct financial interest in an equipment or supply company must disclose the financial interest to the client if the licensee sells or rents, or intends to sell or rent, to that client.
    7. A licensee must not intentionally or knowingly offer to pay or agree to accept any compensation, directly or indirectly, overtly or covertly, in cash or in kind, to or from any person or entity for receiving or soliciting clients or patronage, regardless of the source of the compensation.

8. A licensee must refer to or consult with other service providers whenever such a referral or consultation would be beneficial to care of the client. The referral or consultation process should be done in collaboration with the client.
9. A licensee must not exploit a client, or the parent/guardian of a minor client, sexually, physically, emotionally, financially, socially, or in any other manner.
10. A licensee must not engage in conduct that constitutes harassment or verbal or physical abuse of, or unlawful discrimination against, clients, the parent/guardian of a minor client, students, and/or colleagues.
11. A licensee must not engage in any sexual relationship or conduct, including dating, with any client, or engage in any conduct that may reasonably be interpreted by the client to be sexual, whether consensual or nonconsensual, while a practitioner-client relationship exists and for six months immediately following the termination of the practitioner-client relationship. In the case of minors, the practitioner-client relationship extends to the minor's parent or guardian. (a) A licensee must not intentionally expose or view a completely or partially disrobed client in the course of treatment if the exposure of viewing is not related to the client diagnosis or treatment under current practice standards. (b) A licensee must not engage in a conversation with a client that is sexually explicit and unrelated to the occupational therapy intervention plan.
12. A licensee must not engage in sexual harassment of clients, the parent/guardian of a minor client, students, and/or colleagues. Sexual harassment includes, but is not limited to, making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature that results in: (a) Withholding occupational therapy services to a client; (b) Creating an intimidating, hostile, or offensive environment; or (c) Interfering with the client's ability to recover.
13. A licensee must advocate for clients to obtain needed services through available means.
14. A licensee must provide accurate and relevant information to clients about the clients' care and to the public about occupational therapy services. (a) A licensee must not guarantee the results of any therapy, consultation, or therapeutic procedure. A guarantee of any sort, expressed or implied, oral or written, is contrary to professional ethics. (b) A reasonable statement of prognosis is not improper, but successful results are dependent upon many uncontrollable factors. Hence, any warranty is deceptive and unethical.
15. A licensee must obtain informed consent from the client. (a) A licensee, unless otherwise allowed by law, must not provide care without disclosing to the client or the client's representative, the benefits, substantial risks, if any, or alternatives to the recommended evaluation or intervention. (b) Information relating to the practitioner-client relationship is confidential and may not be communicated to a third party not involved in that client's

care without the prior written consent of the client or the client's representative or unless otherwise allowed by law. Information must be disclosed when required by law for the protection of the client or the public.

16. A licensee must safeguard the public from underutilization or overutilization of occupational therapy services.
17. A licensee must respect the rights and dignity of all clients and provide care. (a) A licensee shall recognize individual differences with clients and shall respect and be responsive to those differences. (b) A licensee must be guided by concern for the physical, psychosocial, and socioeconomic welfare of clients. (c) A licensee must recognize and understand the impact of the cultural components of age, economics, gender, geography, race, ethnicity, religious and political factors, marital status, sexual orientation, and disability of all clients.

D. **Cooperation.** Licensees must cooperate with an investigation by the occupational therapy section. Failure to cooperate is conduct detrimental to the best interest of the public and grounds for disciplinary action. Cooperation includes responding fully and promptly to any questions raised by the occupational therapy section and providing copies of the medical records and other documents requested by the occupational therapy section.
   1. A licensee must respond fully and truthfully to a request for information from the occupational therapy section.
   2. A licensee must comply with a subpoena issued by the occupational therapy section.
   3. A licensee must provide information or documents within the time frame specified by the occupational therapy section.
   4. A licensee must appear and provide information at an interview requested by the occupational therapy section.
   5. A licensee must not deceive, or attempt to deceive, the occupational therapy section regarding any matter, including by altering or destroying any record or document.
   6. A licensee must not interfere with an investigation or disciplinary proceeding by willful misrepresentation of facts before the agency or the occupational therapy section, or by use of threats or harassment against any client or witness to prevent the client or witness from providing evidence in a disciplinary proceeding or any other legal action.
   7. A licensee must not refuse to provide testimony in an administrative hearing.

E. **Self-reporting**. A licensee must self-report to the occupational therapy section, within thirty days, any of the items outlined in paragraphs (E)(1) to (E)(7) of this rule.
   1. Impairment by physical or mental illness, chemical use, or chemical dependency, that affects the applicant's or licensee's ability to practice with reasonable skill and safety.

2. Conviction of a felony.
3. Conviction of a misdemeanor when the act that constituted the misdemeanor occurred during the practice of occupational therapy.
4. The termination, revocation, or suspension of membership by a state or national occupational therapy professional association.
5. The termination, revocation, suspension, or sanctioning of a credential issued by a state or national occupational therapy credentialing organization.
6. A positive drug and/or alcohol screening.
7. A finding of malpractice by a court of competent jurisdiction

Ethical Case Studies

Case Study #1 - Confidentiality

John Jones OTR, Sue Brown (therapy receptionist), and Mary Smith (Director of Managed Care Contracting), are in a private OT office discussing the fact that they are treating Jessica McDonald, an award winning actress. John says, "I can't believe that I'm actually treating Jessica McDonald." Mary asks, "How bad do you think her injury is?" John replies, "I saw her MRI report, it looks likes she is going to need surgery to repair her wrist."

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 her medical information. Therefore, the disclosure to Mary of the patient's identity and medical information is a breach of patient confidentiality.

Case Study #2 – Informed Consent

Sam Smith OTR has just received orders to begin therapy with a 75-year-old woman who is s/p right humerus ORIF. He goes to her hospital room to evaluate her and begin therapy. 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 using her right arm. 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.

The therapist's actions in this case 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 #3- Medical Necessity

Steve Smith is an occupational therapist who owns his own therapy clinic. He recently signed a contract with an HMO to provide OT services. The contract stipulates that Steve will be compensated on a case rate basis. (A fixed amount of money based on the patient's diagnosis) Steve has performed a thorough cost analysis on this contract and has determined that the financial "breakeven" point (revenue equals expenses) for patients with this diagnosis 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 #4 – Conflicts of Interest

Debi Brown OTR 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 #5 – Relationships with Referral Sources

Larry White OTR 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 (and compensate) the physician as the Medical Director contingent upon the number of referrals he sends. It is perfectly acceptable (and required in

some instances) to have a physician as a Medical Director; however, compensating the Medical Director based on their referral volume is unethical. 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/sq. 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 an occupational therapist to offer anything of value to physicians or any other referral source in direct response for the referral of patients or services. This includes cash, rebates, gifts, discounts, reduced rent, services, equipment, employees, or marketing. Many mistakenly believe that it is a normal acceptable business practice to offer these things to referral sources. It is not. In most states, the practice is not only unethical, but it is also illegal.

Exchanges of valued items or services between therapists and referral sources must never have any relationship to the referral of patients. Goodwill gifts of nominal value are acceptable provided that no correlation can be made between the magnitude or frequency of the gift giving and referral patterns. All business agreements and transactions should always be well documented and most importantly, reflect fair market value.

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Ethics – Ohio Occupational Therapy

Post-Test

1. Which ethics theory is accurately defined? (p. 4-5)
   A. Utilitarianism proposes that right and wrong is determined by consequence.
   B. Social Contract Theory is based on the theory that each person should do whatever promotes their own best interests..
   C. Ethical Egoism is the theory that ethical behavior is a result of inherent character traits.
   D. Natural Law Theory proposes that moral code is created by the people who form societies.

2. Which of the following statements is TRUE? (p. 5-6)
   A. All actions that are legal are also morally right.
   B. All actions that are morally right are also legal.
   C. Ethical behavior is a personal matter determined by each individual
   D. The AOTA Code of Ethics establishes ethical behavior for all occupational therapy professional; including those who are not members of the AOTA.

3. Which of the following is NOT one of the identified Principles of the AOTA's Code of Ethics? (p. 6)
   A. Beneficence
   B. Nonmaleficence
   C. Competence
   D. Veracity

4. Ohio occupational therapy licensees who know of unprofessional, incompetent, or illegal OT related activity must _____. (p. 7-8)
   A. report this information to the Ohio Occupational Therapy Section
   B. contact the Ohio Occupational Therapy Association
   C. report the activity to the local police within 48 hours
   D. notify the AOTA in writing within 60 days

5. An occupational therapy assistant shall not provide occupational therapy services without a _____. (p. 8)
   A. supervising occupational therapist
   B. physician on site
   C. signed patient declaration of insurance
   D. All of the above

6. Which of the following is prohibited as per the Ohio Code of Ethical Conduct? (p. 11)
   A. Consensual sex with a former patient 3 months after termination of care.
   B. Dating the parent of a minor patient currently receiving treatment.
   C. Both A and B are prohibited
   D. Neither A nor B are prohibited

7. Ohio licensed OT professionals must self-report a positive drug or alcohol screening to the Ohio occupational therapy section within ____ days. (p. 12-13)
   A. 30
   B. 60
   C. 90
   D. 120

8. The goal of the informed consent process is to _____. (p. 14-15)
   A. provide protection for health care providers against litigation
   B. ensure that patients have an opportunity to be informed participants in decisions about their health care
   C. improve efficiency and accuracy throughout the health care system
   D. facilitate the practice of evidence based medicine

9. A _____ is a situation in which a person has a private or personal interest that influences the objective exercise of his or her professional duties. (p. 15-16)
   A. proprietary relationship
   B. fiduciary concern
   C. conflict of interest
   D. caveat emptor

10. Which of the following is unethical? (p. 16-17)
   A. Having a physician serve as your facility's Medical Director.
   B. Showing your appreciation to your top referral source by giving them basketball season tickets.
   C. Taking a case manager out to lunch to inform her about the new therapy services you have available
   D. Subleasing space from an attorney

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