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Legal and Ethical Practice in Hawaii

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Course Organization

- Legal module: objectives and outline
- Ethical module: objectives and outline
- Post Quiz

- Initial thoughts on a web based course for Hawaiian physical therapists

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Legal Objectives

At the conclusion of this module within the course the participant will be able to

- 1) Identify at least two sources of law that govern physical therapy practice in Hawaii.
- 2) Identify the Hawaii State Practice Act to establish the clinical scope of practice in Hawaii.
- 3) Identify the HI license requirements for physical therapists including continuing competence activities.
- 4) Identify case law and malpractice actions from administrative regulation of licensure.

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Legal Outline

- Types of laws
- Federal Examples
- Hawaii State practice Act
- State Examples
- Malpractice
- Plan for Limiting Liability

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Physical Therapy and the Law

- Federal laws that all healthcare providers must follow
- State practice act specific to physical therapy
- State laws for healthcare providers
- Common law or case law: malpractice

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Physical Therapy and the Law

- Physical therapy practice in each state is established in a state practice act
- The state practice act is decided by the legislature with administrative input and is governed/interpreted by an administrative body: State Board of PT
- 50 different states, 50 different practice acts

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Physical Therapy Practice in the States

- Regulated by the State Board of Physical Therapy
- 50 different states, 50 different laws, 50 different boards
- Primary means of regulation is licensure
- Licensure is by state– reciprocity is not guaranteed (2016)

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Physical Therapy and the Law

- Federal Regulation of the Physical Therapist:
 - HIPAA
 - HITECH
 - The Affordable Care Act
 - Medicare Rules and Regulations
 - Americans with Disabilities Act

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HIPAA

- 1996 The Health Insurance Portability and Accountability Act
- Confidentiality law covering protected health information (patient identifiers)
- Concerned with the transmission of such information
- Covers providers, insurance companies and business associates
- Gives the patient the right to see and correct their medical record

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HITECH

- 2009 Health Information Technology for Economic and Clinical Health Act
- encourages technological advances in health care
- “meaningful use” of electronic healthcare records
- strengthens aspects of HIPAA specifically breach reporting requirements

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HIPAA and HITECH resources

- Health Information Privacy:
<http://www.hhs.gov/ocr/privacy/index.html>
- [healthIT.gov](http://healthit.gov):
extensive information on electronic medical records and compliance issues

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Patient Protection and Affordable Care Act

- Largest piece of health care legislation since Medicare and Medicaid in the 60's
- Controversial and rife with political discord
- Signed into law on March 23, 2010
- Due to change in 2017 and beyond due to changes in leadership in Washington

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Affordable Care Act

- Individual Mandate
- Expansion of state Medicaid programs
- Changes to common practices of 3rd party payers: no exclusions for pre existing conditions, right to an appeal with a coverage denial, requires plain language summary of benefits and coverage, no lifetime limits on coverage etc.

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Affordable Care Act

- ▶ Extends parental insurance coverage of a young adult to 26
- ▶ Establishes insurance exchange marketplaces
- ▶ For more information:

<http://www.hhs.gov/healthcare/rights/law/index.html>

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Medicare Rules and Regulations

- ▶ Centers for Medicare and Medicaid Services

www.cms.gov

- ▶ Site for consumers

www.Medicare.gov

- A, B, C, original Medicare v. Medicare Advantage HMOs and PPOs, D is pharmaceutical coverage
- Medicare is federally funded and federally administered

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Medicare Rules and Regulations

- ▶ APTA is a comprehensive resource
www.apta.org/payment
Basics, new developments (G codes),
advocacy
- ▶ Medicare rules and regulations have a huge impact on PT practice because of the patient population, reimbursement and the influence of Medicare on other third party payers

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Fraud and Abuse

"It is projected that fraud and abuse account for between 3 to 15 percent of annual expenditures for healthcare in the United States"

Costs taxpayers literally BILLIONS of dollars
HIPPA, HITECH and ACA all have provisions to limit fraud and abuse

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Fraud and Abuse

- ▶ CMS defines common **fraud** practices:
 - Knowingly billing for services that were not furnished and/or supplies not provided
 - Billing Medicare for appointments that the patient failed to keep
 - Knowingly altering claims forms and/or receipts to receive a higher payment amount.

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Fraud and Abuse

- ▶ CMS defines common **abuse** practices:
 - Misusing codes on a claim
 - Charging excessively for services or supplies
 - Billing for services that were not medically necessary
- “Fudging is for brownies– not therapy!”

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Fraud and Abuse

- Federal and State issue
- Civil and criminal provisions
- Civil and criminal penalties including jail time
- Potential sanctions on license depending on egregiousness

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Americans with Disabilities Act

- ADA.gov
- What accommodations do I have to provide a patient who is deaf?
- What service animals should I permit in my outpatient clinic?
- Do all aspects of my clinic need to be wc accessible?
- Also an advocacy vehicle...

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Physical Therapy Practice in Hawaii

- ▶ Hawaii State Practice Act:

http://cca.hawaii.gov/pvl/files/2013/08/hrs_461J.pdf

- ▶ Hawaii State Board of Physical Therapy:

<http://cca.hawaii.gov/pvl/boards/physicaltherapy/>

Board is made up of 4 PTs, 1 PTA, 2 public members

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Hawaii State Practice Act

- ▶ Section 461J-1 Definitions
- ▶ “Physical therapy services”
- ▶ “should the care or treatment given by a PT or PTA contravene treatment diagnosed or prescribed by a medical doctor... the PT shall confer with the professional...”
- ▶ “duty to confer”

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Hawaii State Practice Act

- ▶ Hawaii has unrestricted direct access for both examination and treatment
- ▶ No limitations by diagnosis, length of treatment, qualifications of PT
- ▶ “Duty to confer” complements practice expectation of medical screening, communication and referral

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Hawaii State Practice Act

- ▶ Section 461J-2 Practice of physical therapy, qualifications
- ▶ Role of the PT or PTA, use of terminology regarding PT is well protected
- ▶ Language limits chiropractors, physicians, podiatrists or athletic trainers from describing their services as physical therapy

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Hawaii State Practice Act

- 461J-2.3 Physical use of support or auxiliary personnel
- Requires “supervision and direction of a PT”
- Aide or tech never specifically named or given explicit duties
- Board can ask for “proof of compliance”

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Hawaii State Practice Act

- 461J-2.5 Prohibited practices
- “A PT shall not use invasive procedures”
- Invasive procedures defined as “the breaking or puncturing of a person’s good skin integrity, for example through surgery or injections”
- Dry needling
- Needle EMG

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Hawaii State Practice Act

- 461J-10 Biennial renewal; failure to renew
- Renewal fee is due Dec. 31 of each even year (2 year licensure period)

“Failure, neglect or refusal to pay...shall constitute a forfeiture of the license.”

- Restoration of the license requires a written application, payment of the delinquent fee plus 50% of the delinquent fee, proof of completion of the required continuing competence units

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Hawaii State Practice Act

- 461J-12 Revocation, suspension, probation of license
- Board has the power to revoke or suspend a license “at any time for any cause authorized by law”
- Explicitly stated 11 reasons including betraying patient confidentiality, false or deceptive advertising, drug addiction, unethical conduct, professional misconduct or gross carelessness

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Hawaii State Practice Act

- 461J-10.1 Continuing competence
- New in the 15-16 cycle
- Requires 30 units of approved continuing competence activities
- Including 2 units in ethics, laws and rules and 4 units of life support for health care professionals... “comparable to, or more advanced than, the American Heart Association’s basic life support health care provider course”

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Hawaii State Practice Act

- Language in the practice act cannot be fully comprehensive
- Some items may be very explicit- 4 hours of CPR similar to the AHA course and some may raise further questions... no surgery, no puncture of intact skin... what about sharps debridement of a wound??
- State Practice Act must be interpreted by the State Board

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Hawaii State Board of Physical Therapy

- Beyond the Act itself, additional information is available on the website
- Good source of information: meeting minutes
- Announcements and FAQ about continuing education activities
- Public record of administrative hearings

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Hawaii State Board of Physical Therapy

- Meeting Minutes Dec. 2, 2014
- Item #6: Question regarding selective sharp debridement
- Board affirmed decision from a Nov. 1996 meeting that allows for sharp debridement of a wound
- In 1996 required a referral from a physician, which is no longer true under direct access

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Hawaii State Board of Physical Therapy

- ▶ Meeting Minutes: May 10, 2016
- ▶ Dry needling continuing education courses will not count towards continuing competence units because dry needling is outside the scope of PT practice
- ▶ Clarification of community service activity credits– question answered for the individual– future discussion and clarification needed for licensees in general

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Hawaii State Board of Physical Therapy

- ▶ Meeting Minutes: July 12, 2016
- ▶ Discussion of CPR courses and method of delivery– is 4 hours necessary, contemporary? Competency vs. time commitment
- ▶ Discussion regarding auditing of continuing competence activities– Board plans to randomly audit approximately 5% of licensees

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Hawaii State Board of Physical Therapy

- One settlement agreement regarding a licensed PT (did not go to administrative hearing)
- Issue was that this PT let his license lapse in another state and was put on probation in that state
- Hawaii Revised Statutes 436B-19(15) "Failure to report to the board any disciplinary action taken against the licensee in another jurisdiction in writing within 30 days"

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Hawaii State Board of Physical Therapy

- Fine was \$500
- Administrative hand slap?
- PT was caring for his ailing mother in MD when he let Arizona lapse
- Treats primarily in Colorado– owns a private practice in Colorado

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Hawaii State Board of Physical Therapy

- Final comment, taken from the FAQ document regarding continuing competence requirements
- Why didn't the Board notify me earlier?
- Board answers: timely update on the website

And "Please note that all licensees are responsible for knowing and complying with the Hawaii laws and rules of physical therapy practice"

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Hawaii State Board of Physical Therapy

- Attestation on initial application in Hawaii
"I further certify that I have read, understand and will obey the laws and rules concerning physical therapy in the State of Hawaii"

Bottom line: It is the PT's responsibility to stay up to date with the practice act and subsequent requirements
If you don't know- ASK!

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Physical Therapy and the Law

- ▶ State Laws beyond the State Practice Act
 - Additional confidentiality provisions
 - Department of Public Health requirements: disease reporting, restraint laws etc.
 - mandated child abuse training
- ▶ Medicaid rules and regulations
 - Medicaid is federally and state funded, state administered
 - Hawaii agreed to expansion, Hawaii funds CHIP

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Case Law

- ▶ “A professional name for the aggregate of reported cases as forming a body of jurisprudence; or for the law of a particular subject as evidenced or formed by the adjudged cases ; in distinction to statutes and other sources of law”
- ▶ Can be mandatory or persuasive
- ▶ Civil or criminal

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Malpractice

- ▶ Generally speaking *malpractice* means that a professional has been negligent
- ▶ A professional has a duty (fiduciary duty) that carries more responsibility than a regular relationship
- ▶ The relationship is hierarchal– professional has power– based on education, skill set, research etc. that the other person does not have

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Malpractice

Negligence

failure to exercise the care that a reasonably prudent person would exercise in like circumstances

Malpractice

a failure to exercise an ordinary degree of professional skill or learning by one rendering professional services which results in injury, loss, or damage

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Malpractice

- ▶ HPSO CNA report of closed claims 2001 – 2010
- ▶ 3,889 cases with settlements of \$10K or more
- ▶ Data collected on insured PTs
- ▶ Predominantly PTs, far greater than PTAs
- ▶ This is settlement information from the insurance company, not legal information from a court of law

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Malpractice

- ▶ In order of prevalence allegations were:
 - Improper performance using TE
 - Improper performance with physical agents
 - Failure to supervise or monitor
 - Improper performance of manual therapy
 - Improper management over the course of treatment

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Malpractice

- In order of prevalence the injuries patients suffered most commonly were
 - Fractures
 - Burns
 - Increase of exacerbation of injury/symptoms:
 - 34% shoulder
 - 22% low back
 - 19% knee

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Malpractice

- No information on increased liability with DA
- No reason to infer that DA increases liability
- Delivery site of majority of claims was acute care where DA is not utilized
- Issue with DA is not the practice, but making sure you comply with practice act
 - ...and of course reimbursement

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Malpractice

- ▶ PT is a generally safe practice
- ▶ Malpractice is not common
- ▶ Unfortunately a patient can sue a health care provider even if the provider did nothing wrong– was not negligent
- ▶ Suit itself is stressful, costly, emotionally difficult– even if it is baseless

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Malpractice Prevention

An ounce of prevention is worth a pound of cure....

And although you cant completely prevent a malpractice action from happening you can prevent it from being successful!

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“Personal Plan” to limit liability

▸ **Brigette’s Top 10 list to Minimize Personal Negligence:**

- 1) Understand your state practice act– scope of practice
- 2) Stay current with “best” practices– standards of practice

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Limit liability

- 3) Honor your fiduciary duty and act ethically

APTA Code of Ethics revised in 2010

- 4) Maintain high standards of professional behavior

APTA Guide for Professional Conduct

Both documents available:

<http://www.apta.org/Ethics/Core/>

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Limit liability

- 5) Document thoroughly:
 - “Tell yourself a story through your note”
 - “If you open a door, shut it.”
 - Resist being limited by forms, check off sheets and EHR drop down boxes
- 6) Billing must match documentation:
 - only bill for what actually occurred
 - beware of billing for work others have completed

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Limit liability

- 7) Get informed consent regularly as part of your routine practice and patient education
- 8) Know if you need malpractice insurance
 - *new licensure requirement in PA

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Limit liability

- ▶ 9) Remember that every individual that you supervise you are figuratively carrying on top of your license– ***this is a weighty responsibility!***

Ensure that every person understands and acts within their scope of practice.

*HPSO/CNA claims predominantly PTs, not PTAs for a reason

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Limit liability

- 10) Be cautious with your modalities:
 - know what you are applying and why
 - get informed consent
 - monitor skin pre, during and post application
 - document what you observed pre, during and post

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Policy and Procedure Compliance

- Compliance with organizational policy and procedure is important to establish practice standards, practice culture
- Compliance with established p and p can be a defense in malpractice litigation
- However “When in Rome... is only true if Rome is standing!”

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Licensure v. Malpractice

Distinct issues– not synonymous

- Patient can sue you and it has no effect on your license
- You can lose your license and it is not because of harm to a patient Ex. Felony
- Depending on infraction one could impact another
- Also an impact state to state ...

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Legal Resources and Reminders

Scope of practice:

If you don't know... Ask the state board!

Malpractice issues:

Follow your personal plan to limit liability

Fraud and Abuse:

Be diligent to prevent it– don't be afraid to report it!

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Legal Resources and Reminders

- Hawaii Chapter– American Physical Therapy Association: <http://www.hapta.org/>
- American Physical Therapy Association: <https://www.apta.org/>
- Federation of State boards of Physical Therapy: <http://www.fsbpt.org/>

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Ethical Objectives

At the conclusion of this module within the course the participant will be able to:

- 1) Define at least three key concepts related to ethics and professionalism.
- 2) List the 4 bioethical principles.
- 3) Apply a model to solve an ethical dilemma.
- 4) Identify the statement that best describes ethical physical therapy in Hawaii.

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Ethical Outline

- Key Definitions and Ideas
- Bioethical Principles
- Ethical Dilemmas and Problem Solving
- APTA Code of Ethics
- Clinical applications of the APTA Code of Ethics

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Ethics in Daily Practice

- Physical therapists make ethical decisions on a daily basis
- In routine clinical practice PTs are also faced with tough situations known as ethical dilemmas
- Understanding bioethical principles can help therapists make decisions regarding ethical issues in an informed way.
- Practice makes perfect: the more we try and make “good” decisions the better we do with our decision making

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Why Ethics?

- Right vs. Wrong or Right vs. Right?
- Aristotle first used the word “ethics” to describe certain ideas that originated with Socrates and Plato
- Virtues can be learned through practice
- *“the man who possesses character excellence does the right thing at the right time and in the right way”*

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Morals

- Morals are beliefs, principals and values that are intrapersonal.
- Morals may or may not be religious.
- Morals have a cultural basis and are culturally driven.
- Morals are time dependent and therefore develop and change.

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Ethics

- Ethics are how individuals conduct themselves in both their personal and professional lives.
- Ethics are grounded in moral theory.
- Morals are the beliefs, ethics are the action.
- Ethics means your essential code of conduct.

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Personal ethics in action

- Veracity: honesty, truthfulness
- Confidentiality: respect for privacy
- Compassion: concern for others
- Respect: for self, for others, for the law
- Fidelity: Faithful, loyal, committed

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Ethics and Professionalism

- As an individual we are concerned with our own morals and ethics.
- As a professional we practice with an adopted code of ethics.
- As a medical professional we practice with an adopted code based on bioethics.

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Ethics and Professionalism

“what did I sign up for and why???”

Accountability
Altruism
Compassion Caring
Excellence
Integrity
Professional Duty
Social Responsibility

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Ethics and Professionalism

- Core Values are codified into 8 principles
- Principles contain the concepts of bioethics
- Code and the principals support the fiduciary duty
- Professional concepts over ride individual preferences

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Professionalism and the Fiduciary Duty

- A fiduciary relationship creates a duty.
- A fiduciary relationship involves a power differential.
- The imbalance in power is weighted toward the professional.
- Greater power demands greater responsibility.

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The Duty of the Physical Therapist

- Is to the PATIENT
- Is based on a professional Code of Ethics and professional body of knowledge
- Is not limited to general ethics, but stresses bioethics
- Interestingly, the patient has no duty to us beyond their personal code of conduct (this is not a car accident!)

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Bioethics

- Beneficence
- Nonmaleficence
- Autonomy
- Justice

Life work of Beauchamp
and Childress

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Bioethics

- **Beneficence:**
 - Official conduct carried out in a patient's best interests
 - The manifestation of the fiduciary duty
 - The basis of the Hippocratic Oath

As PT's we make the judgment: *What does the patient need? What is best for this patient?*

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Bioethics

► Nonmaleficence

- Do no harm
- Affirmative acts AND omissions

As PTs we ask ourselves: *What risks does this patient face? How do my choices impact those risks? How can I minimize harm?*

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Bioethics

► Justice

- Equity, Fair Treatment

Comparative justice: individual to individual
how healthcare is delivered at a micro level

Distributive justice: societal level

how healthcare services are distributed at a
macro level

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Bioethics

▸ Autonomy

- Respect for individual self determination
- The patient as the decision maker
- Following the Patient's Bill of Rights

As PTs we work with the patient to ensure that not only is their voice heard, but that it is the decisive voice...

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Pseudo ethical issues

▸ Financial obligations

“The Buck stops here!”

Or: ethical physical therapy: *priceless*

Coined Term: “Constrained PT” Nalette 2010

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Ethical Dilemmas

- Defined as a conflict between 2 ethical principles
- Right vs. Right

Beneficence vs. Autonomy

Beneficence vs. Nonmaleficence

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Ethical Decision Making : The Systems Model

Identify the ethical problem

Document facts of the issue plus important unknowns

Delineate multiple courses of action

Analyze the multiple courses of action

Choose 1 to implement

Monitor results

Modify course of action as necessary

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Ethical Decision Making: The SLEEP model

- S: Sociocultural considerations: gender, race, religion, sexual preference
- L: Legal implications
- E: Ethical imperatives
- E: Economic considerations
- P: Political ramifications

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Beneficence vs. Autonomy

- Anecdotally the most common ethical dilemma
- What is good for the patient vs. what the patient wants
- Benefit of therapy vs. the right to refuse therapy
- Benefit of an assistive device vs. the choice not to use it

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Beneficence vs. Nonmaleficence

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Beneficence vs. Nonmaleficence

- ▶ National coverage: Time magazine, still found on Huffington Post:
http://www.huffingtonpost.com/eric-robertson/crossfit-rhabdomyolysis_b_3977598.html
- ▶ Expert quoted is a PT, Eric Robertson PT, DPT, OCS, FAAOMPT– then at Regis University, now at UT at El Paso and also the Director of the Kaiser Permanente Northern California PT Graduate Education
- ▶ Blog is PT Think Tank.com

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Bioethics in a Code of Conduct

Why use a Code of Ethics?

Professional requirements

Legal implications

Ethical Concerns

A professional can have more than one Code of Ethics...

A Code can cover more than 1 profession i.e. speech language therapists and audiologists

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APTA Code of Ethics

- ▶ These ideas about ethics are “codified” by our profession
- ▶ Bioethical principles are contained within the code, as well as “Core Values”
- ▶ APTA Guide for Professional Conduct gives us more information on how to practice within the Code of Ethics (behavioral standards)

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APTA Code of Ethics 2010

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

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

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APTA Code of Ethics 2010

- ▶ **Principle #2: Physical therapists shall be trustworthy and compassionate in addressing the rights and needs of patients/clients.**
- ▶ *(Core Values: Altruism, Compassion, Professional Duty)*
- ▶ “shall act in the best interests of patients/clients over the interests of the physical therapist.”

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APTA Code of Ethics 2010

- 2C specifically addresses informed consent
- 2D Supports the bioethical principle of autonomy
- 2E Confidentiality

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APTA Code of Ethics 2010

- **Principle #3: Physical therapists shall be accountable for making sound professional judgments.**
- *(Core Values: Excellence, Integrity)*
- “Physical therapists shall not engage in conflicts of interest that interfere with professional judgment.”

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APTA Code of Ethics 2010

- ▶ “sound professional judgments” include:
- ▶ Knowing and using best practices, EBP, forming independent (autonomous) judgments as to patient’s needs, length of stay, discharge etc., referring out as indicated, supervising all support personnel

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All Together Now!

- ▶ Consensus Statement on Clinical Judgment in Health Care Settings
- ▶ APTA, AOTA, ASHA
- ▶ Speaks to autonomy
- ▶ Speaks to the potential competing interests between the profession and the employer
- ▶ “employer policies or practices that conflict with the autonomy of practitioners’ clinical judgment can cause frustration, hardship and moral distress.”

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All Together Now!

- ▶ Examples cited in the statement:
 - –patients on caseload who do not belong on caseload
 - Inappropriate administrative requirements for productivity and frequency, intensity or duration
 - Treatment without consent
 - Inappropriate coding
 - Counting time that does not count– transport, rest etc.
 - Limiting examination time due to reimbursement issues

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Clinical Judgments: Choosing Wisely

- ▶ Choosing Wisely is an initiative of the American Board of Internal Medicine Foundation
- ▶ Over 50 medical groups including the APTA have joined
- ▶ Evidence based recommendations to help providers give the best care
- ▶ “Things Providers and Patients should Question”

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Clinical Judgments: Ask the Question

- 1) Don't employ passive physical agents except when necessary to facilitate participation in an active treatment program
- 2) Don't prescribe under dosed strength training programs for older adults.
- 3) Don't recommend bed rest following the diagnosis of DVT once anti-coagulation therapy has started unless there are significant medical concerns

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Clinical Judgments: Ask the Question

- 4) Don't use CPM machines for the post op management of patients following uncomplicated TKR
- 5) Don't use whirlpools for wound management

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APTA Code of Ethics 2010

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

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Included in Integrity: Reporting

- ▶ **4C. Physical therapists shall discourage misconduct by health care 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.**

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APTA Code of Ethics 2010

- Principle #5: Physical therapists shall fulfill their legal and professional obligations.
- *(Core Values: Professional Duty, Accountability)*
- *5A: comply with all laws*
- *5B: supervision of PTAs and aides*
- *5C: protect research participants*

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APTA Code of Ethics 2010

- Principle #5 cont.:
 - *5D and 5E: Colleague impairment*
 - *5D encourage colleague to seek assistance*
 - *5E reporting "unable to perform duties with reasonable skill and/or safety"*
 - *5F proper termination:*
- "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."

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APTA Code of Ethics 2010

- **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** Achieve and maintain competency
- **6B** critical self assessment and reflection
- **6D** cultivate practice environments that support life long learning

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APTA Code of Ethics 2010

- **Principle #7: Physical therapists shall promote organizational behaviors and business practices that benefit patients/clients and society.**
- *(Core Values: Integrity, Accountability)*
- Physical therapists shall not accept gifts or other considerations that influence or give an appearance of influencing their professional judgment.
- **7A** accountable autonomy
- **7D** disclose financial interests in products and services
- **7E** refrain from employment obligations that prevent professionalism

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APTA Code of Ethics 2010

- ▶ Gifts can be considered under **Principle 2** as sound judgment, under **Principle 3** as a conflict of interest or under **Principle 7** as an inappropriate business practice.

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APTA Code of Ethics 2010

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

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Health Crises in our Society

Prescription Drug Use and Abuse

- ▶ Ann Intern Med 2015 almost all people who overdose receive another prescription for the same opioid
- ▶ Annually the number of deaths from opioid overdoses exceeds the number of deaths by MVA
- ▶ say it isn't so ...

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Health Crises in our Society

- ▶ HHS and FDA have all made recent recommendations and changes to combat opioid addiction and overdose
- ▶ CDC went as far as to suggest that opioids should not be a first-line treatment for chronic pain
- ▶ CDC also gave a direct "shout out" to PT stating:
- ▶ "The contextual evidence review found that many nonpharmacologic therapies, including physical therapy, weight loss for knee osteoarthritis, psychological therapies such as [cognitive behavioral therapy, or CBT], and certain interventional procedures can ameliorate chronic pain."

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Health Crises in our Society

- According to mentalhealth.gov in 2014
- One in five American adults experienced a mental health issue
- One in 10 young people experienced a period of major depression
- One in 25 Americans lived with a serious mental illness, such as schizophrenia, bipolar disorder, or major depression
- Suicide was the 10th leading cause of death in the United States
(twice the homicide rate)

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Health Crises in our Society

- Underutilization of Mental Health Treatments
- Stigma around Mental Health issues
- Unfounded fears about deranged violent acts
- Myths about the causes of mental health problems and appropriate treatments

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Health Crises in our Society

As PTs:

- Are we brave enough to have these “courageous conversations?”
- Do we know the facts to have a solid conversation
- Do we have resources and appropriate referral sources?

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Ethics Reminders

- Act on your Fiduciary Duty to the Patient
- Understand Bioethics Concepts and Identify Ethical Dilemmas
- Live the APTA Code of Ethics and the Hawaii State Practice Act
- Create a Culture where Ethics Matter

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Ethics Resources

- ▶ National
 - APTA: <http://www.apta.org/EthicsProfessionalism/>
 - FSBPT: <https://www.fsbpt.org/FreeResources/EthicsArticles.aspx>
- ▶ Nancy Kirsch's Ethics in Practice magazine column in PT in Motion
- ▶ Bioethics.com
- ▶ Bioethics.net
- ▶ Virtualmentor.org– an AMA website for ethics
- ▶ Medscape Ethics interest (push technology)

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In Conclusion

- ▶ Legal and ethical responsibilities are an important part of clinical practice
- ▶ Knowledge of practice standards in these areas is our responsibility
- ▶ Whether in Hawaii or Philadelphia our duty to our patients is the same
- ▶ Thank you for your time!

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