Ethics, Laws, and Regulations for California Physical Therapy

LEARNING OUTCOME: Upon completion of this course, you will have gained the knowledge to incorporate ethical and legal principles and behaviors into the practice of physical therapy in California. Specific learning objectives include:

- Define ethics.
- Summarize the fundamental ethical principles generally associated with the practice of healthcare.
- Distinguish between how ethics and values operate in the healthcare setting.
- Discuss the American Physical Therapy Association’s “Code of Ethics and Guide for Professional Conduct of Physical Therapists.”
- Discuss the American Physical Therapy Association’s “Guide for Conduct of Physical Therapist Assistants” and “Standards of Ethical Conduct for the Physical Therapist Assistant.”
- Describe the basis and sources of law in the United States.
- Discuss the elements of the California Physical Therapy Practice Act.
- Identify how civil and criminal law apply to the practice of physical therapy.

WHAT ARE ETHICS?

Ethics are broadly defined as the division of philosophy that deals specifically with questions concerning the nature of values in regards to matters of human conduct. In considering ethical judgments and decisions, this branch of philosophy is primarily concerned with the ability to:
• Clarify the nature of such judgments in general
• Provide criteria for determining what is ethically right or wrong
• Investigate the grounds for holding these judgments to be correct
  (Loyola University New Orleans, 2014)

Why are ethics so important to consider, both in the practice of healthcare in general and physical therapy in particular? As physical therapists and physical therapist assistants assume a more autonomous role in healthcare, ethical judgments play an important role in the scope of sound clinical decision-making. In addition to potential legal consequences, unethical behavior risks loss of trust among the public, both for individual physical therapists and/or physical therapist assistants as well as for the profession as a whole (FSBPT, 2018a).

**Ethical Theories**

In order to clarify why what is considered to be “right” or “good” actually is right or good, philosophers engaged with questions of ethics have generally sought to formulate and justify ethical theories. These theories are intended to explain the fundamental nature of that which is “good,” why it is “good,” and why the ethical principles most commonly used to evaluate human conduct follow (or do not follow) from these theories. Ethical theories may be presented for different purposes, as described below:

• **Descriptive ethical theories** seek to describe what people consider to be “good” or “right.” Such theories may be considered true or false depending on whether they do indeed describe correctly what people consider to be good or right.

• **Normative ethical theories** are intended to justify judgments concerning what people should do or not do. Normative theories are primarily concerned not with what is the case but with what should be the case in an ideal situation.

• **Teleological ethical theory**, also called consequentialist theory, claims that it is the consequence, or end result, of an action that determines whether the action is right or wrong.

• **Deontological ethical theory** argues that it is the motivation, as opposed to the consequences of an action, that determines whether the action is right or wrong.
  (Loyola University New Orleans, 2014)

**Ethical Principles and Healthcare**

There are four fundamental ethical principles generally accepted and applied to the practice of healthcare as a whole:

• **Autonomy** refers to the ability of an individual to think, decide, and act upon one’s own initiative. It is the responsibility of healthcare providers to provide sufficient and accurate
information to a patient to allow the patient to make informed decisions and to honor a patient’s decisions regarding their own healthcare even when a patient’s decision may diverge from what the healthcare team would choose.

• **Beneficence** means working actively for the best interests of the patient. This principle highlights the general concept of doing good for others and, in the context of a provider-patient relationship, entrusts a healthcare provider with performing professional and clinical duties in a competent, caring manner that will benefit the patient.

• **Nonmaleficence** means to do no harm to a patient. This may mean carefully weighing potential benefits against potential negative results and/or side effects that may potentially result from providing healthcare interventions.

• **Justice** refers to a healthcare provider’s ethical responsibility to, insofar as possible, provide equal and impartial treatment to all patients in similar situations, regardless of a patient’s age, disability status, socioeconomic status, race, religion, gender identification, sexual orientation, or other background factors.
  (University of Ottawa, 2017)

While explicit ethical principles specific to the practice of physical therapy are detailed below, the preceding four fundamental ethical principles are applicable and implicit in the components of the APTA’s Core Documents (discussed later in this course) (APTA, 2016a).

**Ethics Versus Values**

While the terms *ethics* and *values* are often used interchangeably, they are actually quite different in meaning. Ethics constitutes a broadly accepted collection of moral principles; values are much more individualized and relate to an individual’s personal set of standards regarding what is right, important, and valuable (Townsville Community Legal Services, 2018).

**Ethical Dilemmas**

An ethical dilemma arises when a practitioner becomes caught between two conflicting duties that mutually exclude one another but that would each be ethically viable if considered separately. In order to protect the best interests of the patient and to minimize the risk of ethical and/or legal complaints, it is of utmost importance that practitioners develop the skills and are aware of the resources available for the successful resolution of ethical dilemmas.

Resolution of ethical dilemmas in the clinical setting requires a thoughtful and careful decision-making process and may include any or all of the following steps:

• Identifying ethical issues, including any conflicting values and duties. Relevant codes of ethics, standards, legal principles, agency policies, and one’s personal values must be considered.
• Identifying which individuals, groups, and/or organizations are likely to be affected by the ultimate decision. Who is involved and who has the right and/or the responsibility to make the decisions?

• Identifying possible courses of action, the participation involved in each, and possible benefits and risks of each option. Whom would each choice affect and how? What are the risks and potential benefits of each option?

• Consulting with colleagues and appropriate experts. Many healthcare institutions have formal ethics committees to assist in the resolution of ethical dilemmas, particularly in more complex cases such as those that involve delicate end-of-life issues. Ethics committees generally consist of members from a variety of clinical and nonclinical backgrounds, such as healthcare professionals, bioethicists, clergy, lawyers, and lay persons.

• Making and documenting the decision. A written record of the decision-making process is a crucial component in resolution of an ethical dilemma.

(National Association of Social Workers, 2013)

**CASE**

Tyler works as a physical therapist on the postoperative orthopedic floor of a large urban hospital. When Tyler arrives at the room of Mr. Akhinga, who has had bilateral total knee replacements, to begin his scheduled morning physical therapy session, he finds the patient still in bed in his hospital gown. When Tyler inquires about this at the nurse’s station, he is told that Mr. Akhinga stated that he did not want any PT today “because I’m in too much pain.” This is the third time this has happened this week.

Tyler now faces an ethical dilemma. While the ethical principle of autonomy dictates that Mr. Akhinga does indeed have the right to accept or refuse physical therapy interventions, Tyler is concerned that continued missed therapy sessions may lead to a poorer overall functional outcome for Mr. Akhinga in the long term. This would run counter to the ethical principle of beneficence, or acting in a clinical manner that would positively affect a patient’s well-being.

Tyler documents the missed visit for the morning and goes immediately to his rehab director to discuss the dilemma. Tyler and the rehab director consult with the nursing staff, a social worker, and Mr. Akhinga’s surgeon, as well as with Mr. Akhinga and his wife. It is eventually discovered that Mr. Akhinga’s postoperative pain has not been sufficiently managed by his currently prescribed medication, but that he has been hesitant to discuss his discomfort with his nurses because, “I didn’t want to bother them, they’re already so busy.”

It is decided that Mr. Akhinga’s surgeon will adjust his medication to better manage his pain and that his nursing personnel will verbally ask Mr. Akhinga to rate his pain at regular intervals throughout the day. The rehab director offers to make Mr. Akhinga’s physical therapy schedule available to the nursing staff on the postop floor several days in advance so that his medication schedule and therapy schedule may be coordinated.
The consultations and agreed-upon course of action are documented in Mr. Akinga’s medical record and Mr. Akinga seems pleased with the plan of action. Within one day, he is reporting significantly less pain and is once again willing to participate in physical therapy.

CODES AND STANDARDS OF ETHICAL CONDUCT

Codes of ethics are formal statements that set forth standards of ethical behavior for members of a specific group. One of the hallmark characteristics of a profession is that its members subscribe to a code of ethics. Every member of a profession is expected to read, understand, and abide by the specific ethical standards of that profession.

In order to assert the values and standards expected of members of the profession of physical therapy, the American Physical Therapy Association (APTA) publishes the Code of Ethics for the Physical Therapist, Standards of Ethical Conduct for the Physical Therapist Assistant, APTA Guide for Professional Conduct, and APTA Guide for Conduct of the Physical Therapist Assistant. These four documents are regularly revised and updated, with the latest codes and standards effective 2016 (APTA, 2016a).

Portions of these documents are provided below. (See also “Resources” at the end of this course.)

Code of Ethics for the Physical Therapist

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PREAMBLE

The Code of Ethics for the Physical Therapist delineates the ethical obligations of all physical therapists as determined by the House of Delegates of the American Physical Therapy Association. 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, and other healthcare professionals, regulators, and the public regarding the core values, ethical principles, and standards that guide the professional conduct of the physical therapist

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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 Code, 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.

**ROLES, CORE VALUES, AND REALMS OF ETHICAL ACTION**

The APTA’s Code of Ethics for the Physical Therapist delineates five roles, seven core values, and three realms of ethical action to which physical therapists are expected to adhere.

**Roles** assumed by physical therapists in professional practice include:

1. Management of patients/clients
2. Consultation
3. Education
4. Research
5. Administration

**Core values** which physical therapists are expected to exemplify include:

1. Accountability
2. Altruism
3. Compassion/caring
4. Excellence
5. Integrity
6. Professional duty  
7. Social responsibility  

**Realms of ethical action** for physical therapists include:

1. Individual  
2. Organizational  
3. Societal  

**PRINCIPLES**  

1. Physical therapists shall respect the inherent dignity and rights of all individuals.  
   *(Core Values: Compassion, Integrity)*  
   A. 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.  
   B. Physical therapists shall recognize their personal biases and shall not discriminate against others in physical therapist practice, consultation, education, research, and administration.  

2. Physical therapists shall be trustworthy and compassionate in addressing the rights and need of patients/clients.  
   *(Core Values: Altruism, Compassion, Professional Duty)*  
   A. 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.  
   B. Physical therapists shall provide physical therapy services with compassionate and caring behaviors that incorporate the individual and cultural differences of patients/clients.  
   C. 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.  
   D. Physical therapists shall collaborate with patients/clients to empower them in decisions about their healthcare.  
   E. Physical therapists shall protect confidential patient/client information and may disclose confidential information to appropriate authorities only when allowed or as required by law.
3. Physical therapists shall be accountable for making sound professional judgments.  
(Core Values: Excellence, Integrity)
   A. Physical therapists shall demonstrate independent and objective professional judgment in the patient’s/client’s best interest in all practice settings.
   B. Physical therapists shall demonstrate professional judgment informed by professional standards, evidence (including current literature and established best practice), practitioner experience, and patient/client values.
   C. 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 healthcare professionals when necessary.
   D. Physical therapists shall not engage in conflicts of interest that interfere with professional judgment.
   E. Physical therapists shall provide appropriate direction of and communication with physical therapist assistants and support personnel.

4. Physical therapists shall demonstrate integrity in their relationships with patients/clients, families, colleagues, students, research participants, and other healthcare providers, employers, payers, and the public.  
(Core Value: Integrity)
   A. Physical therapists shall provide truthful, accurate, and relevant information and shall not make misleading representations.
   B. Physical therapists shall not exploit persons over whom they have supervisory, evaluative, or other authority (e.g., patients/clients, students, supervisees, research participants, or employees).
   C. Physical therapists shall discourage misconduct by healthcare professionals and report illegal or unethical acts to the relevant authority when appropriate.
   D. Physical therapists shall report suspected cases of abuse involving children or vulnerable adults to the appropriate authority, subject to law.
   E. Physical therapists shall not engage in any sexual relationship with any of their patients/clients, supervisees, or students.
   F. Physical therapists shall not harass anyone verbally, physically, emotionally, or sexually.

5. Physical therapists shall fulfill their legal and professional obligations.  
(Core Values: Professional Duty, Accountability)
   A. Physical therapists shall comply with applicable local, state, and federal laws and regulations.
   B. Physical therapists shall have primary responsibility for supervision of physical therapy assistants and support personnel.
C. Physical therapists involved in research shall abide by accepted standards governing protection of research participants.

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

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

F. 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.

6. Physical therapists shall enhance their expertise through the lifelong acquisition and refinement of knowledge, skills, abilities, and professional behaviors.

(Core Value: Excellence)

A. Physical therapists shall achieve and maintain professional competence.

B. 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.

C. Physical therapists shall evaluate the strength of evidence and applicability of content presented during the professional development activities before integrating the content or technique into practice.

D. Physical therapists shall cultivate practice environments that support professional development, life-long learning, and excellence.

7. Physical therapists shall promote organizational behavior and business practices that benefit patients/clients and society.

(Core Values: Integrity, Accountability)

A. Physical therapists shall promote practice environments that support autonomous and accountable professional judgments.

B. Physical therapists shall seek remuneration as is deserved and reasonable for physical therapy services.

C. Physical therapists shall not accept gifts or other considerations that influence or give an appearance of influencing their professional judgment.

D. Physical therapists shall fully disclose any financial interest they have in products or services that they recommend to patients/clients.

E. 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.
F. Physical therapists shall refrain from employment arrangements or other arrangements that prevent physical therapists from fulfilling professional obligations to patients/clients.

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

A. 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.

B. Physical therapists shall advocate to reduce health disparities and healthcare inequities, improve access to healthcare services, and address the health, wellness, and preventive healthcare needs of people.

C. Physical therapists shall be responsible stewards of healthcare resources and shall avoid overutilization or underutilization of physical therapy services.

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

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**CASE**

Ibi is completing her final clinical rotation for her DPT program. Her rotation site is located at a small, critical-access hospital in rural Alaska. Ibi is excited about the wide variety of patients and conditions that she has had the opportunity to encounter in this generalist setting. In the second week of her rotation, Ibi’s clinical instructor (CI) informs her that three patients were admitted to the hospital the previous night with frostbite, and it is expected that they will all require wound care, possibly including sharp debridement, over the next several days.

Having grown up and attended school in Florida, Ibi has never encountered frostbite in a clinical setting. While Ibi has learned about wound care in her didactic program and performed various types of wound care under direct supervision from CIs during earlier student rotations, she has never performed sharp debridement. Ibi does not want to disappoint her CI and wants to receive a positive evaluation for this clinical, yet she does not feel confident in her ability to treat these patients on her own. What should Ibi do?

**Discussion**

Principle 6B of the Code of Ethics of the Physical Therapist clearly states that physical therapists should “take responsibility for their professional development based on critical self-assessment and reflection on changes in physical therapist practice, education, healthcare delivery, and technology.” Likewise, Principle 3C states that 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 healthcare professionals when necessary.”

Even though she wants to please her CI, Ibi should not perform procedures that are outside the scope of her experience, especially if she is not confident in her ability to perform them safely.
Ibi should discuss her concerns with her supervisor at once, explaining that all of her prior rotations were in warm-weather locations and that she has never had the occasion to treat frostbite or to practice sharp debridement. Ibi should respectfully request that her CI provide her with guidance and appropriate training in these areas.

Standards of Ethical Conduct for the Physical Therapist Assistant

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PREAMBLE

The Standards of Ethical Conduct for the Physical Therapist Assistant delineate the ethical obligations of all physical therapist assistants as determined by the House of Delegates of the American Physical Therapy Association. 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 instances where the guidance of the Standards of Ethical Conduct may not be definitive.

STANDARDS

1. Physical therapist assistants shall respect the inherent dignity and rights of all individuals.
   A. 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.
   B. Physical therapist assistants shall recognize their personal biases and shall not discriminate against others in the provision of physical therapy services.

2. Physical therapist assistants shall be trustworthy and compassionate in addressing the rights and needs of patients/clients.
   A. Physical therapist assistants shall act in the best interest of patients/clients over the interests of the physical therapist assistants.
   B. Physical therapist assistants shall provide physical therapy interventions with compassionate and caring behaviors that incorporate the individual and cultural differences of patients/clients.
   C. Physical therapist assistants shall provide patients/clients with information regarding the interventions they provide.
D. 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.

3. Physical therapist assistants shall make sound decisions in collaboration with the physical therapist and within the boundaries established by laws and regulations.
   
   A. Physical therapist assistants shall make objective decisions in the patient’s/client’s best interests in all practice settings.

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

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

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

   E. 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.

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

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

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

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

   D. 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.

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

   F. Physical therapist assistants shall not harass anyone verbally, physically, emotionally, or sexually.
5. Physical therapist assistants shall fulfill their legal and ethical obligations.
   A. Physical therapist assistants shall comply with applicable local, state, and federal laws and regulations.
   B. Physical therapist assistants shall support the supervisory role of the physical therapist to ensure quality care and promote patient/client safety.
   C. Physical therapist assistants involved in research shall abide by accepted standards governing protection of research participants.
   D. 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.
   E. Physical therapist assistants who have knowledge that a colleague is unable to perform his/her professional responsibilities with reasonable skill and safety shall report this information to the appropriate authority.

6. Physical therapist assistants shall enhance their competence through the life-long acquisition and refinement of knowledge, skills, and abilities.
   A. Physical therapist assistants shall achieve and maintain clinical competence.
   B. 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.
   C. Physical therapist assistants shall support practice environments that support career development and life-long learning.

7. Physical therapist assistants shall support organizational behaviors and business practices that benefit patients/clients and society.
   A. Physical therapist assistants shall promote work environments that support ethical and accountable decision-making.
   B. Physical therapist assistants shall not accept gifts or other considerations that influence or give an appearance of influencing their decisions.
   C. Physical therapist assistants shall fully disclose any financial interest they have in products or services that they recommend to patients/clients.
   D. Physical therapist assistants shall ensure that documentation for their interventions accurately reflects the nature and extent of the services provided.
   E. Physical therapist assistants shall refrain from employment arrangements or other arrangements that prevent physical therapist assistants from fulfilling ethical obligations to patients/clients.
8. Physical therapist assistants shall participate in efforts to meet the health needs of people locally, nationally, and globally.

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

   B. 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.

   C. Physical therapist assistants shall be responsible stewards of healthcare resources by collaborating with physical therapists in order to avoid overutilization or underutilization of physical therapy services.

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

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**CASE**

For the past six months, Rowan has had increasing difficulty in trying to avoid his new neighbor. Ever since she learned that Rowan is a licensed physical therapist assistant, the neighbor has constantly pestered him about her many aches and pains in hopes of getting some free treatment. After the neighbor’s fourth unannounced visit to his home, Rowan finally gives in and agrees to look at his neighbor’s sore neck. After all, he has often watched physical therapists complete cervical spine evaluations and establish treatment plans at the clinic where he works. Rowan examines his neighbor’s cervical range of motion and, finding a limitation in left-sided rotation, he performs some muscle-energy techniques to address this.

**Discussion**

Has Rowan done anything wrong? Definitely. Rowan has violated two specific standards from the Standards of Ethical Conduct for the Physical Therapist Assistant:

- Standard 3B: “Physical therapist assistants shall be guided by information about best practice regarding physical therapy interventions.”

- Standard 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 modification to the established plan of care.”

As a physical therapist assistant, Rowan is under no circumstances allowed to perform an evaluation on a patient or to select specific treatment options without direct supervision from and/or in consultation with a physical therapist.
Guides for Conduct

In order to help physical therapists and physical therapist assistants interpret and apply the Code of Ethics and the Standards of Ethical Conduct, the ethics and judicial committee of the American Physical Therapy Association has published the *APTA Guide for Professional Conduct* and the *APTA Guide for Conduct of the Physical Therapist Assistant*. These guides address each portion of the Code and Standards and are intended to provide a framework by which PTs and PTAs may determine the propriety of their conduct and to guide the development of students. *(See also “Resources” at the end of this course.)*

LEGAL CONCEPTS AND STATUTES

Physical therapists and physical therapist assistants practice within a society governed by state and federal law. For that reason, it is important that physical therapy professionals understand the basis of law (jurisprudence) in the United States, its sources and types, and the relationship of law to ethics in the practice of physical therapy.

Laws and Rules

Laws flow from ethical principles and are limited to specific situations and codified by detailed language. Laws establish rules of conduct and are formulated by an authority with power to enforce them. As such, laws change with time and circumstances.

The state of California has the power to create and enforce laws governing the profession of physical therapy, including licensure. In California, the division of power mirrors that of the federal government:

- The legislative branch makes laws on behalf of the people.
- The judicial branch interprets these laws and adjudicates disputes, fulfilling its purpose to administer justice without partiality.
- The executive branch administers and enforces the laws, using the police power of the state.

*(Schoenly et al., 2017)*

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TYPES OF LAW

There are two major divisions of law: civil and criminal.

**Civil law** pertains to the private rights of one or more individuals and provides a means by which individuals may seek to enforce their rights against other individuals. Some types of civil law include contract law, wills, family law, and trusts. Civil litigation that involves injury (due to assault, battery, negligence, professional negligence, etc.) is called a *tort*.

**Criminal law** regulates the conduct of the individual in order to protect the public and society as a whole. Criminal prosecution is initiated by the government as opposed to an individual. The main types of criminal offenses are felonies, misdemeanors, and infractions. The primary goal of criminal litigation is to punish the defendant (University of Minnesota, 2018a).

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<tr>
<td><strong>Civil Law</strong></td>
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| **Types** | • Contract law  
• Wills  
• Family law  
• Trusts  
• Torts (involves injury due to assault, battery, negligence, professional negligence, etc.) |
| **Proof** | By preponderance of evidence; adjudicated by a judge or jury; a jury decision need not be unanimous |
| **Criminal Law** |
| **Function/Goal** | To regulate individual conduct for the good of society as a whole; to punish defendant (if found guilty) |
| **Types** | • Felonies (most serious crimes such as manslaughter, murder, rape, etc.)  
• Misdemeanors (lesser offences such as simple battery, first DUI offense, violation of Physical Therapy Practice Act, etc.)  
• Infractions (petty-level crimes usually not punishable by imprisonment, such as speeding, parking violations, etc.) |
| **Proof** | Beyond a reasonable doubt; jury decision must be unanimous |

Sources: University of Minnesota Open Library, 2018a; PTBC, 2017.
Federal Statutory Issues in Physical Therapy Practice

Though healthcare regulation has historically been managed by individual states, the federal government has become increasingly involved in recent years. Of particular relevance to the practice of physical therapy are certain specific acts of Congress, notably:

- Americans with Disabilities Act
- Health Insurance Portability and Accountability Act

**AMERICANS WITH DISABILITIES ACT**

The Americans with Disabilities Act (ADA), first enacted in 1990, is a broad-reaching civil rights statute. Amended in 2008 to broaden protections for workers with disabilities, with additional revisions in 2010 and 2016, it protects the rights of people with a variety of ailments, including persons infected with human immunodeficiency virus (HIV) and those with respiratory and musculoskeletal disorders. Its provisions include measures of particular interest and relevance to physical therapists, such as access to public buildings, equal legal protection of persons living with disabilities, and nondiscrimination in employment situations (ADA, 2014).

**HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT**

The Health Insurance Portability and Accountability Act (HIPAA) of 1996 limits the extent to which health insurance plans may exclude care for pre-existing conditions and creates special programs to control fraud and abuse within the healthcare system. The most well-known provision of the act is its standards regarding the electronic exchange of sensitive, private health information. Known as privacy standards, these rules 1) require the consent of clients to use and disclose protected health information, 2) grant clients the right to inspect and copy their medical records, and 3) give clients the right to amend or correct errors. Privacy standards require all hospitals and healthcare agencies to have specific policies and procedures in place to ensure compliance with the rules (CMS, 2013).

**California Physical Therapy Practice Act**

In 1953, the California legislature passed the state Physical Therapy Practice Act (PTPA). The Physical Therapy Board of California administers and enforces the act. The goal of the PTPA and the board is to protect the public by setting standards for physical therapy education and practice. It is the responsibility of practitioners to know and abide by the provisions of the act and its rules and regulations (APTA, 2018; FSBPT, 2018a). The current laws, rules, and regulations are available online. (See “Resources” at the end of this course.)

Physical therapists must practice within the scope of physical therapy practice defined by the state’s Physical Therapy Practice Act. California’s PTPA includes rules and requirements for educational institutions and practitioners regarding:

- Scope of practice
• Licensure
• Educational standards
• Enforcement
• Offenses

In the United States, physical therapist licensure is required in all 50 states as well as in the District of Columbia, Puerto Rico, and the Virgin Islands. Licensure is required in each state in which physical therapists practice. All California physical therapy licenses must be renewed every two years, and California requires the completion of 30 hours of continuing education in order for a licensee to qualify for license renewal.

It is a criminal offense for licensees to violate provisions of the state’s PTPA. When individuals or agencies believe a physical therapist or physical therapist assistant has violated a provision of the act, they may complain to the Physical Therapy Board of California. The board will investigate the allegations, and if sufficient evidence is found to support the complaint, the state may file a complaint against the licensee.

Because a state license cannot be taken away without due process, licensees have the right to a public hearing before the board, to be represented by an attorney, and to present witnesses on their own behalf. Following such a hearing, the board may: 1) take no action, 2) reprimand the licensee, 3) suspend or revoke the individual’s license, or 4) place the licensee on probation.

California’s Physical Therapy Practice Act describes many types of unprofessional conduct that constitute grounds for citation, discipline, denial of a license, or issuance of a probationary license. Some of these include:

• Obtaining a license by fraud
• Failing to maintain adequate records of patient care
• Practicing in a grossly incompetent or negligent manner
• Unlawfully possessing or using a controlled substance
• Failing to follow infection control guidelines
• Engaging in sexual misconduct

(PTBC, 2016)

**Federation of State Boards of Physical Therapy**

All fifty U.S. states, as well as the District of Columbia, Puerto Rico, and Virgin Islands, belong to the Federation of State Boards of Physical Therapy (FSBPT). This organization develops and administers the National Physical Therapy Examination (NPTE) for both physical therapists and physical therapist assistants. These examinations evaluate the basic entry-level competence for first-time licensure of a physical therapist or physical therapist assistant within the
The NPTE also helps regulatory authorities to evaluate potential licensure candidates and provide standards that are comparable from jurisdiction to jurisdiction.

In addition to the NPTE, the organization has developed a number of relevant documents, including the following:

- **Model Practice Act for Physical Therapy:** For use by states and other jurisdictions when reviewing and updating their practice acts
- **Continuing Competence Initiative:** For use by licensing boards in evaluating the continuing competence of licensees who are eligible for licensure renewal
- **Coursework Tool:** For use by licensing boards and credentialing agencies when evaluating non-U.S. educational programs for equivalence to United States accredited programs
- **Basis for Disciplinary Action Definitions and Descriptions:** For use by physical therapy regulatory bodies in order to categorize the basis for disciplinary action (FSBPT, 2018b)

### CASE

Alexa is a physical therapist who works in an outpatient pediatric clinic in Sacramento. Though she excels in her professional and clinical responsibilities, she has lately been struggling with some personal issues, including a health crisis with her elderly father and a recent acrimonious divorce. She also just found out that her teenaged son dropped out of high school.

With all the recent upheaval in her personal life, Alexa accidentally misplaced the letter from the Physical Therapy Board of California that contained the forms for her upcoming licensure renewal. Three weeks after her renewal deadline had passed, the director of the pediatric practice where Alexa works requested updated copies of state licenses for all therapist employees. Alexa realized that she had forgotten to renew her license, which was now expired. To make matters worse, Alexa also realized that she had not completed sufficient continuing education to be eligible for license renewal. Alexa was extremely upset and embarrassed and became tearful in her manager’s office as she described the recent stressors in her life that had contributed to her forgetting to complete her license renewal requirements.

### Discussion

Alexa’s manager, Jade, was a very supportive employer and knew Alexa to be a loyal employee and highly competent therapist who had simply made a mistake. Jade gently explained to Alexa that she would have to cease practicing immediately and begin the process of reinstating her lapsed license in accordance with California’s Physical Therapy Practice Act, including payment of applicable penalties and completion of requisite paperwork. In addition, they would need to call the Physical Therapy Board of California in order to explain the situation and to determine if Alexa is liable for any disciplinary action due to having inadvertently practiced with a lapsed license for three weeks.
They discussed Alexa’s other recent personal stressors, and Jade suggested that Alexa use some of her accrued paid time off to take a pediatric continuing education course that was being offered out of state. Jade assisted Alexa in finding some respite care for her elderly father and arranged for Alexa’s son to stay with relatives temporarily, allowing Alexa to enjoy some much-needed down time while simultaneously completing the continuing education that she needed to reinstate her license.

CIVIL LAW AND PHYSICAL THERAPY PRACTICE

Civil law is concerned with harm against individuals, including breaches of contracts and torts. A civil action is considered a wrong between individuals. Its purpose is to make right the wrongs and injuries suffered by individuals, usually by assigning monetary compensation. It is important to be aware that an action can potentially be both criminal and civil in nature (Stanford & Connor, 2012).

A contract is an agreement that is enforceable by law, created by oral or written consent of the parties. Contracts may include obligations imposable by law even if one or more parties are not aware of those obligations.

Breach of contract is a failure (without legal excuse) to perform any promise that forms all or part of a contract. This includes failure to perform in a manner that meets the standards of the industry or the requirements of any express warranty or implied warranty. One or both parties violating a written agreement (such as an employment agreement between a healthcare agency and a physical therapist) may constitute breach of contract (University of New Mexico, 2018).

A tort is a wrong against an individual. Torts may be classified as either intentional or unintentional.

- Intentional torts include assault and battery, false imprisonment, defamation of character, invasion of privacy, fraud, and embezzlement.
- Unintentional torts are commonly referred to as negligence. In order to be successfully claimed, negligence must consist of four elements: duty, breach of duty, causation, and damages. (Stanford & Connor, 2012)

Intentional Torts

ASSAULT AND BATTERY

Assault is doing or saying anything that makes people fear they will be touched without their consent. The key element of assault is fear of being touched, for example, threatening to force a resistant patient to get out of bed against his/her will.
Battery is touching a person without consent, whether or not the person is harmed. For battery to occur, unapproved touching must take place. The key element of battery is lack of consent. Therefore, if a man bares his arm for an injection, he cannot later charge battery, saying he did not give consent. If, however, he agreed to the injection because of a threat, the touching would be deemed battery, even if he benefited from the injection and it was properly prescribed (University of Minnesota Open Library, 2018b).

Except in rare circumstances, clients have the right to refuse treatment. Other examples of assault and/or battery might include:

- Forcing a client to submit to treatments for which he or she has not consented orally, in writing, or by implication
- Moving a protesting client from one place to another
- Forcing a client to get out of bed to walk
- In some states, performing blood alcohol tests or other tests without consent

**FALSE IMPRISONMENT**

False imprisonment is a tort offense that involves restraining or confining a competent person against their will. Some examples of false imprisonment are:

- Restraining (physically, pharmacologically, etc.) a client for non–medically approved reasons
- Detaining an unwilling client in the hospital, even after the client insists on leaving
- Detaining a person who is medically ready for discharge for an unreasonable period of time
  (Louisiana State University Law Center, 2018)

**DEFAMATION OF CHARACTER**

Defamation of character is communication that is untrue and injures the good name or reputation of another or in any way brings that person into disrepute. This includes clients as well as other healthcare professionals. When the communication is oral, it is called slander; when it is written, it is called libel. Prudent healthcare professionals: 1) record only objective data about clients, such as data related to treatment plans and 2) follow agency policies and approved channels when the conduct of a colleague endangers client safety (Stanford & Connor, 2012).

**INVASION OF PRIVACY**

Invasion of privacy includes intruding into aspects of a patient’s life without medical cause. Invasion of privacy is a legal issue separate from violations of HIPAA’s privacy rule due to the fact that invasion of privacy goes beyond protected health information.
CASE

Riley, a physical therapist at the local hospital, was chatting with her neighbor, Sonja, an occupational therapist who works in home health, while they did yard work together. When they were finished digging up a flowerbed, Sonja shook out her wrists and said, “Wow, I feel like I just gave myself carpal tunnel syndrome from all that digging!”

“That reminds me,” Riley said. “You’ll never guess who I saw at the hospital today—remember Manny, who used to date your sister? Well, he was just referred to our outpatient clinic for treatment of carpal tunnel symptoms. I always thought he was pretty tough, but it turns out that he’s a real wimp when it comes to pain. Makes you wonder if he’s all that good a mechanic, really.” Suddenly, Riley realized she had violated a core value of her professional code of ethics by disclosing confidential client information without authorization, as well as voicing personal and nonobjective opinions about this client.

Discussion

Riley violated principle 2E in the Code of Ethics for the Physical Therapist, stating, “Physical therapists shall protect confidential patient/client information and may disclose confidential information to appropriate authorities only when allowed or as required by law.”

Not only had Riley violated a principle of the Code of Ethics by disclosing confidential information, if the matter were to become known to her client, a legal suit of slander could be realistically brought against Riley. Even though it may be tempting to discuss clinical aspects of client care with friends who are also healthcare professionals, the Code of Ethics expressly prohibits sharing of confidential patient information with unauthorized individuals.

FRAUD

Fraud includes deceitful practices in healthcare and can include the following:

- False promises
- Upcoding (such as billing group treatment sessions as individual therapy)
- Insurance fraud

EMBEZZLEMENT

Embezzlement is the conversion of property that one does not own for his or her own use, such as when an employee appropriates funds from a company bank account (Stanford & Connor, 2012).
Unintentional Torts: Negligence

It is the legal responsibility of all healthcare professionals to uphold a certain standard of care. This standard is generally measured against an established norm of what other similarly trained professionals would do if presented with a comparable situation.

ELEMENTS OF NEGLIGENT CARE

In the case of negligent care, four components must be present in order to establish a successful unintentional tort claim.

1. **Duty** is established when a healthcare professional agrees to treat a patient.

2. **Breach of duty** occurs when a healthcare professional fails to act in a manner consistent with what another member of that health profession would prudently do in a similar situation.
   - Misfeasance occurs when a mistake is made (such as administering a treatment to the wrong patient).
   - Nonfeasance occurs when a healthcare professional fails to act (such as not assisting a spinal-cord injured patient with proper pressure relief during a treatment session).
   - Malfeasance occurs when the negligent action involves questionable intent (such as physically pulling a resistant patient from bed and causing bruises on the patient’s wrist).

3. **Causation** requires that an injury of ill-effect to the patient must be proven to have been a direct result of the action (or lack of action) taken by the healthcare professional.

4. **Damages** refers to the actual injuries inflicted by the accused for which compensation is owed.
   (Stanford & Connor, 2012)

PRINCIPLES AFFECTING MALPRACTICE ACTIONS

Professional negligence (malpractice) is the improper discharge of professional duties or failure to meet standards of care, resulting in harm to another person. Four important principles affect malpractice actions: individual responsibility, *respondeat superior*, *res ipso loquitur*, and standard of care.

- **Individual responsibility** affirms the principle that every person is responsible for his or her own actions. Even when several other people are involved in a situation, it is difficult for any one person to remain free of all responsibility and shift all responsibility to others.

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• **Doctrine of respondeat superior** (“let the master speak”) holds employers indirectly and vicariously liable for the negligence of their employees who are acting within the scope of their employment at the time a negligent act occurs. This doctrine allows an injured party to sue both the employee and employer, to sue only the employee, or to sue only the employer for alleged injuries. Although each person is responsible for her or his own acts, professionals with oversight duties are held responsible for the actions of those they supervise. For example, a physical therapist is held accountable for the actions of physical therapist assistants or physical therapy aides that he/she supervises.

• **Doctrine of res ipso loquitor** (“the thing speaks for itself”) is a rule of evidence designed to equalize the positions of plaintiffs and defendants in the situation when plaintiffs (those injured) may be at a disadvantage. The rule allows a plaintiff to prove negligence by circumstantial evidence when the defendant has the primary, and sometimes only, knowledge of what happened to cause an injury.

Generally speaking, plaintiffs must prove every element of a case against defendants. Until they do, the court presumes that the defendants did meet the applicable standard of care. However, when the court applies the *res ipso loquitor* rule, defendants must prove that they were not negligent. Plaintiffs can ask the court to invoke the *res ipso loquitor* rule if three elements are present:

1. The act that caused the injury was in the exclusive control of the defendant.
2. The injury would not have happened in the absence of negligence by the defendant.
3. No negligence on the part of the plaintiff contributed to the injury.

(Fremgen, 2015)

• **Standard of care** refers the level of care provided to a patient that would be reasonably expected to be provided by another individual in a comparable situation.

**CASE**

Aaron Cohen, PT, DPT, a newly licensed physical therapist, helped Mr. Singh get out of bed to attempt ambulation for the first time since his recent hip ORIF. When Aaron had assisted Mr. Singh to standing, the patient in the other bed suddenly asked Aaron to get her a glass of water. Aaron, thinking that Mr. Singh was steady on his feet, left him standing alone and went across the room to the other patient. Mr. Singh lost his balance and fell to the floor, sustaining a significant head laceration.

**Discussion**

Mr. Singh sued Aaron for negligence on the basis of *res ipso loquitor*. All three necessary legal elements were present:

1. The act that caused the injury was in Aaron’s exclusive control.
2. The injury would not have happened in the absence of negligence by Aaron.
3. There was no negligence on the part of Mr. Singh that contributed to the injury.

Mr. Singh won the case and Aaron was held liable for his injury.

Minimizing Risk of Malpractice Claims

Physical therapists and physical therapist assistants, like all healthcare professionals, are well-advised to take sensible precautions to minimize the risk of malpractice claims being brought against them.

While nothing can take the place of formal legal counsel, the APTA does offer a number of valuable resources on legal topics of interest to physical therapists and physical therapist assistants. It is advisable for physical therapy professionals to become and remain familiar with their state’s practice act and to familiarize themselves with the section of the APTA’s website dedicated to legal topics.

Health Provider’s Service Organization, an APTA-endorsed provider of professional liability insurance for physical therapy professionals, has also created a Risk Control Self-Assessment Checklist for Physical Therapists (HPSO, 2012).

(See also “Resources” at the end of this course).

Informed Consent

According to the APTA’s Guide for Professional Conduct, physical therapy professionals have a responsibility to respect the decision-making rights of patients, inform patients about clinical findings, and use good professional judgment in informing patients of any potential notable risks of interventions. While a physical therapy professional may provide patient education, they may not make decisions (clinical or otherwise) for a competent adult patient.

DECLARATION OF PRINCIPLE ON INFORMED CONSENT OF THE WORLD CONFEDERATION FOR PHYSICAL THERAPY

Competent individuals should be provided with adequate, intelligible information about the proposed physical therapy. This information should include a clear explanation of:

- Planned examination/assessment
- Evaluation, diagnosis, and prognosis/plan
- Intervention/treatment to be provided
- Risks that may be associated with the intervention
• Expected benefits of the intervention
• Anticipated time frames
• Anticipated costs
• Any reasonable alternatives to the recommended intervention
(WCPT, 2017)

CONCLUSION

As physical therapy providers assume an increasingly autonomous role in the delivery of rehabilitative services, it is of vital importance that they adhere strictly to existing laws and ethical principles. Physical therapists and physical therapist assistants are responsible for maintaining the highest standards of professional conduct. These standards arise from ethical principles, fundamental concepts by which people gauge the rightness or wrongness of behavior, and laws, which flow from ethical principles and are limited to specific situations, codified by detailed language and formulated by an authority with power to enforce them.

Ethical standards of behavior for physical therapy professionals have been identified by the American Physical Therapy Association and codified into law in California’s Physical Therapy Practice Act. Continuing competence in both ethics and jurisprudence is vital for all practicing physical therapy professionals, regardless of experience level or practice setting.

RESOURCES

APTA Core Documents
http://www.apta.org/Policies/CoreDocuments/

Legal topics of interest to PTs and PTAs (APTA)
http://www.apta.org/Legal/Topics/

Physical Therapy Board of California
http://www.ptbc.ca.gov/laws/

Risk Control Self-Assessment Checklist for Physical Therapists (APTA)
REFERENCES


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1. Ethics is concerned with:
   a. Examining the nature of values as they apply to human conduct.
   b. Protecting society from actions that directly threaten its order.
   c. Punishing members of society for actions that are ethically wrong.
   d. Organizing people to rise up and change society.

2. Which ethical theory claims that an action’s end result determines whether the action is right or wrong?
   a. Deontological
   b. Teleological
   c. Normative
   d. Descriptive

3. When a physical therapist refuses to provide treatment based on a patient’s sexual orientation, the therapist is violating which ethical principle?
   a. Nonmaleficence
   b. Justice
   c. Autonomy
   d. Beneficence

4. When a physical therapist demands that a male patient get out of bed and participate in therapy after the patient repeatedly states that he does not feel well and wants to stay in bed, the therapist is violating which ethical principle?
   a. Beneficence
   b. Nonmaleficence
   c. Autonomy
   d. Justice

5. When therapists make statements about how their personal standards determine what they consider to be right, they are speaking about:
   a. Ethics.
   b. Values.
   c. Personal philosophy.
   d. Community morality.
6. The purpose of a code of ethics is to:
   a. Describe the scope of practice of a profession.
   b. Describe standards of behavior of a profession.
   c. Establish laws for the practice of a profession.
   d. Serve as a substitute for a state physical therapy practice act.

7. A physical therapist specializing in women’s health volunteers one weekend each month at a community clinic that serves low-income women and children. The therapist receives no compensation for the provision of such services. Which American Physical Therapy Association Core Value is the therapist most exemplifying?
   a. Excellence
   b. Accountability
   c. Social responsibility
   d. Integrity

8. Which of the Standards of Ethical Conduct for the Physical Therapist Assistant is violated when a supervising physical therapist assistant initiates a sexual relationship with a student physical therapist assistant?
   a. Standard 7: Physical therapist assistants shall support organizational behaviors and business practices that benefit patients/clients and society.
   b. Standard 3: Physical therapist assistants shall make sound decisions in collaboration with the physical therapist and within the boundaries established by laws and regulations.
   c. Standard 2: Physical therapist assistants shall be trustworthy and compassionate in addressing the rights and needs of patients/clients.
   d. Standard 4: Physical therapist assistants shall demonstrate integrity in their relationships with patients/clients, families, colleagues, students, and other healthcare providers, employers, payers, and the public.

9. Which is a true statement regarding laws?
   a. Laws address specific situations and include detailed language.
   b. Laws are broad, general principles to guide human behavior.
   c. Laws are formulated by the judicial branch of the government.
   d. Laws never change with time or circumstances.

10. When a physical therapist violates a regulation of the Physical Therapy Practice Act, the offense is categorized as a:
    a. Misdemeanor.
    b. Felony.
    c. Breach of contract.
    d. Infraction.
11. A federal law specifically dealing with the rights of patients in regard to private and/or sensitive healthcare information is the:

12. In California, the agency that administers and enforces the Physical Therapy Practice Act is the:
   a. Board of Medical Examiners.
   b. Physical Therapy Board.
   c. Administrative Council of Physical Therapy.
   d. Federation of State Boards of Physical Therapy.

13. The goal of California’s Physical Therapy Practice Act is to:
   a. Create an administrative body to define physical therapy.
   b. Describe the scope of practice of physical therapy.
   c. State the competency requirements of physical therapists.
   d. Protect the public by setting standards of education and practice.

14. A pediatric physical therapist has been formally accused by a patient’s mother of being verbally abusive to the patient during a recent treatment session. According to due process, which is not a right of the accused physical therapist?
   a. To obtain legal representation by an attorney
   b. To request a public hearing before the state licensure board
   c. To request that the complaint be dismissed without further inquiry
   d. To present a witness who was present during the alleged incident

15. A physical therapist in the hospital receives a consult to evaluate a patient who has just undergone a left hip open reduction internal fixation (ORIF). The patient’s postoperative precautions are toe-touch weight bearing (TTWB) only at this time. The physical therapist fails to notice the level of weight-bearing precaution indicated and initiates gait training with weight bearing as tolerated (WBAT) with the patient. Two treatment sessions are completed before the therapist realizes his error. On the second afternoon following WBAT gait training, the patient begins to complain of severe pain in the operative hip. The therapist’s action is an example of:
   a. Malfeasance.
   b. Negligence.
   c. An intentional tort.
   d. A criminal offense.
16. Which action by a physical therapist does not adhere to principles of informed consent according to the World Confederation for Physical Therapy?

   a. Carefully explaining the planned evaluation/assessment process to a nervous, first-time patient prior to beginning
   b. Informing the patient of any foreseen out-of-pockets costs for treatment
   c. Convincing a patient who states she is hesitant about being touched that manual therapy should be part of her treatment program
   d. Discussing with the patient the potential benefits of a particular course of intervention