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Contact Hours: **3**

Ethics and Law in Occupational Therapy Practice

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LEARNING OUTCOME AND OBJECTIVES: Upon completion of this course, you will be prepared to incorporate ethical principles and behaviors into the practice of occupational therapy. Specific learning objectives to address potential knowledge gaps include:

- Identify the meaning of ethics and ethical theories.
- Discuss the Core Values, Principles, and Standards of Conduct of the AOTA Occupational Therapy Code of Ethics.
- Describe how civil and criminal laws apply to the practice of occupational therapy.

WHAT ARE ETHICS?

Ethical action goes beyond rote compliance with principles and is a manifestation of moral character and mindful reflection. It is a commitment to benefit others, to virtuous practice of artistry and science, to genuinely good behaviors, and to noble acts of courage. Recognizing and resolving ethical issues is a systematic process that includes analyzing the complex dynamics of situations, weighing consequences, making reasoned decisions, taking action, and reflecting on outcomes (AOTA, 2020).

The terms *laws* and *ethics* are distinct from one another, although some individuals mistakenly assume they mean the same thing. In the United States, **law** refers to any rule that, if broken, “subjects the person(s) who break the rule to criminal punishment or civil liability” (The Free Dictionary, n.d.-a). Occupational therapists and occupational therapy assistants must practice according to the laws that govern their society as well as their occupational therapy practice.

Ethics refers to a system or set of moral principles that govern behavior, including job performance. Ethics includes beliefs about the “rightness” and “wrongness” of actions as well as the “goodness” and “badness” of motives and outcomes (The Free Dictionary, n.d.-b).

Occupational therapists and occupational therapy assistants must practice according to the ethical principles of their profession as described in the *AOTA Occupational Therapy Code of Ethics* (see below).

Ethical Theories

In order to clarify questions around what people consider to be “right” or “good,” philosophers 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 in the examples below:

- **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. The most common form of consequentialism is utilitarianism or social consequentialism, which holds that one should act so as to do the greatest good for the greatest number of people. A utilitarian may consider lying to be justified if it results in helping a patient.
- **Deontological ethical theory**, or “**duty ethics**,” argues that it is the motivation, as opposed to the consequences of an action, that determines whether the action is right or wrong. For instance, unlike utilitarians, truth-telling may be considered a moral duty and lying to be wrong even if truth-telling may cause harm or lying would accomplish a great good.
- **Principlism** is a widely applied ethical approach based on the four fundamental moral principles of autonomy, beneficence, nonmaleficence, and justice. It is not intended to be a general moral theory. Instead, principlism provides a framework of underlying values that can be applied to identify moral problems and aid in practical ethical decision-making.
(Amer, 2019)

FUNDAMENTAL PRINCIPLES

Four fundamental ethical principles are 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.

(Beauchamp & Childress, 2019)

Ethical Dilemmas

An ethical dilemma is a conflict between choices that, no matter which choice is made, some ethical principle will be compromised. Resolution of ethical dilemmas requires careful evaluation of all the facts of a case, including applicable laws, consultation with all concerned parties, and appraisal of the decision makers' ethical philosophies (Hegde, 2019).

In order to resolve an ethical dilemma in the best possible way, several steps should be taken. These include:

1. Gather all relevant data; include all options and opinions.
2. Identify the existence of an ethical issue. Such issues typically occur when dealing with "right vs. wrong" and "good vs. bad" concepts.
3. Identify the person(s) involved in the dilemma and their concerns, conflicts, and how they will be affected by decisions made.
4. Identify all options for the resolution of the ethical dilemma.
5. Analyze options and determine what solutions best facilitate resolution.
6. Determine a course of action.
7. Review how the involved persons feel about the proposed course of action.

8. Take action.
(Mintz, 2019)



AOTA OCCUPATIONAL THERAPY CODE OF ETHICS

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Codes of ethics are formal statements that set forth standards of ethical behavior for members of a group. In fact, one of the hallmarks 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 ethical standards of its occupation.

In order to assert the values and standards expected of members of the profession of occupational therapy, the American Occupational Therapy Association (AOTA) developed the *AOTA Occupational Therapy Code of Ethics* (the “Code”). As stated in its preamble:

The Code is an AOTA Official Document and a public statement tailored to address the most prevalent ethical concerns of the occupational therapy profession. It outlines Standards of Conduct the public can expect from those in the profession. It should be applied to all areas of occupational therapy and shared with relevant stakeholders to promote ethical conduct. The Code serves two purposes:

1. It provides aspirational Core Values that guide members toward ethical courses of action in professional and volunteer roles.
2. It delineates enforceable Principles and Standards of Conduct that apply to AOTA members.

Core Values

The Code describes seven long-standing Core Values that guide the ethical conduct of occupational therapy practitioners and provide a foundation to guide their interactions with others. These values should form the basis of determining the most ethical course of action. They include:

1. **Altruism:** Demonstrating unselfish concern for the welfare of others
2. **Equality:** Treating all people with fairness and impartiality
3. **Freedom:** Valuing each person’s right to exercise autonomy and demonstrate independence, initiative, and self-direction
4. **Justice:** Maintaining a goal-directed and objective relationship with recipients of service and upholding moral and legal principles and the legal rights of recipients of service
5. **Dignity:** Valuing, promoting, and preserving the inherent worth and uniqueness of each person while respecting a person’s social and cultural heritage and life experiences



6. Truth: Being faithful to facts and reality as demonstrated by accountable, honest, forthright, accurate, and authentic attitudes and actions
7. Prudence: Governing and disciplining oneself through the use of reason, and valuing judiciousness, discretion, vigilance, moderation, care, and circumspection (AOTA, 2020)

Principles

The Principles guide ethical decision-making and inspire occupational therapy personnel to act in accordance with the highest ideals. These Principles are not hierarchically organized. At times, conflicts between competing principles must be considered in order to make ethical decisions. These Principles may need to be carefully balanced and weighed according to professional values, individual and cultural beliefs, and organizational policies.

1. Beneficence
2. Nonmaleficence
3. Autonomy
4. Justice
5. Veracity
6. Fidelity

BENEFICENCE

Principle 1. Occupational therapy personnel shall demonstrate a concern for the well-being and safety of the recipients of their services.

Beneficence includes all forms of action intended to benefit other persons and requires taking action by promoting good and preventing or removing harm (Beauchamp & Childress, 2019). For example, in occupational therapy practice, beneficence requires acting in a clinical manner intended to result in a positive outcome for the client.

NONMALEFICENCE

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

Nonmaleficence entails the obligation to not impose a risk of harm even if the potential risk is without malicious or harmful intent. However, in the context of standard of due care, under which the goal of an intervention must justify the risks imposed to achieve those goals, a treatment that might cause the client to feel pain may be justified by potential long-term, evidence-based benefits of the treatment (Beauchamp & Childress, 2019).



AUTONOMY

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

Practitioners have a duty to treat clients according to the clients' desires, within the bounds of accepted standards of care, and to protect the clients' confidential information. Also referred to as *self-determination*, autonomy acknowledges clients' rights to make a determination regarding care decisions that directly affect their lives based on their own values and beliefs (Beauchamp & Childress, 2019).

PATIENT SELF-DETERMINATION ACT

The responsibility held by healthcare providers to ensure and respect a patient's right to autonomy is also legally enforced by the federal Patient Self-Determination Act (PSDA) of 1991. The PSDA mandates that any Medicare- and/or Medicaid-certified healthcare institution must actively work to educate adult patients and the community as a whole about the rights of a patient to accept or refuse healthcare interventions. The PSDA obligates healthcare providers to ensure that patients are informed of their legal rights, under individual state law, to make decisions about their own healthcare, as well as to create an advance directive for themselves.

This law mandates that patients admitted to healthcare facilities be asked whether they have an advance directive in place; that healthcare facilities maintain policies and procedures regarding advance directives; and that this information be provided to patients when they are admitted. (The PSDA defines an advance directive as a "written instrument, such as a living will or durable power of attorney for healthcare, recognized under state law, relating to the provision of such care when the individual is incapacitated.") Advance directive laws were put into place in response to several highly visible legal cases in order to protect the right of a patient to predetermine whether or not to receive life-sustaining healthcare interventions (Castillo et al., 2011; WSHA, 2014).

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

The Health Insurance Portability and Accountability Act (HIPAA) of 1996 addresses issues related to 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. (See "Resources" at the end of this course.)



JUSTICE

Principle 4. Occupational therapy personnel shall promote fairness and objectivity in the provision of occupational therapy services.

Occupational therapy personnel should relate in a respectful, fair, and impartial manner to individuals and groups with whom they interact. They should also respect the applicable laws and standards related to their area of practice, which may include prohibitions against discrimination according to disability, race, religion, gender, age, sexual orientation, or lifestyle.

VERACITY

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

Veracity is based on the virtues of truthfulness, candor, and honesty. In communicating with others, occupational therapy personnel implicitly promise to be truthful and not deceptive, recognizing the client's right to accurate information. Veracity is valued as a means to establish trust and strengthen professional relationships and requires thoughtful analysis of how full disclosure of information may affect outcomes.

FIDELITY

Principle 6. Occupational therapy personnel shall treat clients, colleagues, and other professionals with respect, fairness, discretion, and integrity.

Fidelity refers to the duty one has to keep a commitment once it is made. In the health professions, this commitment refers to promises made between a provider and a client or patient based on an expectation of loyalty, staying with the client or patient in a time of need, and compliance with a code of ethics (Veatch et al., 2015). Fidelity also addresses maintaining respectful collegial and organizational relationships (Doherty & Purtilo, 2016).

CASE

Lucy works as an occupational therapist on the postoperative orthopedic floor of a large urban hospital. Mr. Smith, who recently sustained a transradial amputation of his dominant upper extremity, was just referred to Lucy for therapy. Lucy evaluated Mr. Smith previously and has begun his occupational therapy program. Today, Lucy arrives at Mr. Smith's room for his scheduled OT session but finds Mr. Smith still in bed in his hospital gown. Lucy inquires about this at the nurse's station and is told that Mr. Smith stated he did not want any OT today "because he just wants to die." This is the third time this has happened this week.

Lucy faces an ethical dilemma. While the ethical principle of autonomy dictates that Mr. Smith does have the right to accept or refuse occupational therapy interventions, Lucy is concerned that continued missed therapy sessions may lead to a poorer overall functional outcome for Mr. Smith 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.



Lucy documents the missed visit for the morning and goes immediately to the rehab director to discuss the dilemma. Lucy and the rehab director consult with the nursing staff, a social worker, and Mr. Smith's surgeon, as well as with Mr. Smith and his wife. It is eventually established that Mr. Smith is experiencing depressive symptoms, which is not uncommon with him being a new amputee.

The surgeon starts Mr. Smith on an antidepressant and communicates with the nursing staff to monitor Mr. Smith for any adverse side effects and any changes to his depressive symptoms. Lucy adds new goals in relation to depression management and occupational engagement and, at her next patient visit, educates Mr. Smith and his wife on support groups and provides materials on depression after amputation. The consultations and agreed-upon course of action are documented in Mr. Smith's medical record, and Mr. Smith is accepting of the plan.

Standards of Conduct

The AOTA Ethics Commission enforces the following Standards of Conduct under the "Enforcement Procedures for the *AOTA Occupational Therapy Code of Ethics*" (AOTA, 2019):

SECTION 1: PROFESSIONAL INTEGRITY, RESPONSIBILITY, AND ACCOUNTABILITY

Occupational therapy personnel maintain awareness and comply with AOTA policies and official documents, current laws and regulations that are relevant to the profession of occupational therapy, and employer policies and procedures.

1A. Comply with current federal and state laws, state scope of practice guidelines, and AOTA policies and Official Documents that apply to the profession of occupational therapy. (Principle: Justice; key words: policy, procedures, rules, law, roles, scope of practice)

1B. Abide by policies, procedures, and protocols when serving or acting on behalf of a professional organization or employer to fully and accurately represent the organization's official and authorized positions. (Principle: Fidelity; key words: policy, procedures, rules, law, roles, scope of practice)

1C. Inform employers, employees, colleagues, students, and researchers of applicable policies, laws, and Official Documents. (Principle: Justice; key words: policy, procedures, rules, law, roles, scope of practice)

1D. Ensure transparency when participating in a business arrangement as owner, stockholder, partner, or employee. (Principle: Justice; key words: policy, procedures, rules, law, roles, scope of practice)

1E. Respect the practices, competencies, roles, and responsibilities of one's own and other professions to promote a collaborative environment reflective of interprofessional teams. (Principle: Fidelity; key words: policy, procedures, rules, law, roles, scope of practice, collaboration, service delivery)



1F. Do not engage in illegal actions, whether directly or indirectly harming stakeholders in occupational therapy practice. (Principle: Justice; key words: illegal, unethical practice)

1G. Do not engage in actions that reduce the public's trust in occupational therapy. (Principle: Fidelity; key words: illegal, unethical practice)

1H. Report potential or known unethical or illegal actions in practice, education, or research to appropriate authorities. (Principle: Justice; key words: illegal, unethical practice)

1I. Report impaired practice to the appropriate authorities. (Principle: Nonmaleficence; key words: illegal, unethical practice)

1J. Do not exploit human, financial, or material resources of employers for personal gain. (Principle: Fidelity; key words: exploitation, employee)

1K. Do not exploit any relationship established as an occupational therapy practitioner, educator, or researcher to further one's own physical, emotional, financial, political, or business interests. (Principle: Nonmaleficence; key words: exploitation, academic, research)

1L. Do not engage in conflicts of interest or conflicts of commitment in employment, volunteer roles, or research. (Principle: Fidelity; key words: conflict of interest)

1M. Do not use one's position (e.g., employee, consultant, volunteer) or knowledge gained from that position in such a manner as to give rise to real or perceived conflict of interest among the person, the employer, other AOTA members, or other organizations. (Principle: Fidelity; key words: conflict of interest)

1N. Do not barter for services when there is the potential for exploitation and conflict of interest. (Principle: Nonmaleficence; key words: conflict of interest)

1O. Conduct and disseminate research in accordance with currently accepted ethical guidelines and standards for the protection of research participants, including informed consent and disclosure of potential risks and benefits. (Principle: Beneficence; key words: research)

SECTION 2: THERAPEUTIC RELATIONSHIPS

Occupational therapy personnel develop therapeutic relationships to promote occupational well-being in all persons, groups, organizations, and society, regardless of age, gender identity, sexual orientation, race, religion, origin, socioeconomic status, degree of ability, or any other status or attributes.

2A. Respect and honor the expressed wishes of recipients of service. (Principle: Autonomy; key words: relationships, clients, service recipients)



- 2B. Do not inflict harm or injury to recipients of occupational therapy services, students, research participants, or employees. (Principle: Nonmaleficence; key words: relationships, clients, service recipients, students, research, employer, employee)
- 2C. Do not threaten, manipulate, coerce, or deceive clients to promote compliance with occupational therapy recommendations. (Principle: Autonomy; key words: relationships, clients, service recipients)
- 2D. Do not engage in sexual activity with a recipient of service, including the client's family or significant other, while a professional relationship exists. (Principle: Nonmaleficence; key words: relationships, clients, service recipients, sex)
- 2E. Do not accept gifts that would unduly influence the therapeutic relationship or have the potential to blur professional boundaries, and adhere to employer policies when offered gifts. (Principle: Justice; key words: relationships, gifts, employer)
- 2F. Establish a collaborative relationship with recipients of service and relevant stakeholders to promote shared decision-making. (Principle: Autonomy; key words: relationships, clients, service recipients, collaboration)
- 2G. Do not abandon the service recipient, and attempt to facilitate appropriate transitions when unable to provide services for any reason. (Principle: Nonmaleficence; key words: relationships, client, service recipients, abandonment)
- 2H. Adhere to organizational policies when requesting an exemption from service to an individual or group because of self-identified conflict with personal, cultural, or religious values. (Principle: Fidelity; key words: relationships, client, service recipients, conflict, cultural, religious, values)
- 2I. Do not engage in dual relationships or situations in which an occupational therapy professional or student is unable to maintain clear professional boundaries or objectivity. (Principle: Nonmaleficence; key words: relationships, clients, service recipients, colleagues, professional boundaries, objectivity, social media)
- 2J. Proactively address workplace conflict that affect or can potentially affect professional relationships and the provision of services. (Principle: Fidelity; key words: relationships, conflict, clients, service recipients, colleagues)
- 2K. Do not engage in any undue influences that may impair practice or compromise the ability to safely and competently provide occupational therapy services, education, or research. (Principle: Nonmaleficence; key words: relationships, colleagues, impair, safety, competence, client, service recipients, education, research)
- 2L. Recognize and take appropriate action to remedy occupational therapy personnel's personal problems and limitations that might cause harm to recipients of service. (Principle: Nonmaleficence; key words: relationships, clients, service recipients, personal, safety)



2M. Do not engage in actions or inactions that jeopardize the safety or well-being of others or team effectiveness. (Principle: Fidelity; key words: relationships, clients, service recipients, colleagues, safety, law, unethical, impaired, competence)

CASE

Tia is an occupational therapist in a midsize inpatient rehabilitation facility. She has recently noticed that her patient Michael, a young man recovering from a traumatic brain injury, seems to be developing feelings for her that go beyond the usual therapist-client relationship. Tia has not paid too much attention to the comments that Michael makes about her appearance and how attractive he finds her, as she believes this is a part of Michael's brain injury.

Upon initiating a therapy session with Michael one morning, Tia enters Michael's room, and he presents her with a pair of earrings and asks her to be his girlfriend. While Tia appreciates Michael's generosity, she quickly realizes the ethical problem at hand. Tia schedules a meeting with the rehab director and Michael's counselor to discuss the situation and to weigh her options.

Discussion

Is it ethical for Tia to accept this gift or begin a relationship with this client?

No. Standard of Conduct 1K (Principle: Nonmaleficence) of the *AOTA Occupational Therapy Code of Ethics* states that occupational therapy personnel shall "not exploit any relationship established as an occupational therapy practitioner, educator, or researcher to further one's own physical, emotional, financial, political, or business interests."

Standard 2D (Principle: Nonmaleficence) states that occupational therapy personnel shall "not engage in sexual activity with a recipient of service, including the client's family or significant other, while a professional relationship exists."

And Standard 2E (Principle: Justice) states that occupational therapy personnel shall "not accept gifts that would unduly influence the therapeutic relationship or have the potential to blur professional boundaries, and adhere to the employer policies when offered gifts."

If Tia did want to pursue a relationship with Michael, the ethical choice would be to explain to Michael that she cannot do so while he is still a patient of the clinic where she is employed. Tia and Michael may pursue a relationship after he completes rehab and is discharged. Alternatively, if Michael chooses to complete his rehab at a different facility, this would also allow them to begin dating without creating an ethical dilemma of a professional nature for Tia.



SECTION 3: DOCUMENTATION, REIMBURSEMENT, AND FINANCIAL MATTERS**Occupational therapy personnel maintain complete, accurate, and timely records of all client encounters.**

3A. Bill and collect fees justly and legally in a manner that is fair, reasonable, and commensurate with services delivered. (Principle: Justice; key words: billing, fees)

3B. Ensure that documentation for reimbursement purposes is done in accordance with applicable laws, guidelines, and regulations. (Principle: Justice; key words: documentation, reimbursement, law)

3C. Record and report in an accurate and timely manner and in accordance with applicable regulations all information related to professional or academic documentation and activities. (Principle: Veracity; key words: documentation, timely, accurate, law, fraud)

3D. Do not follow arbitrary directives that compromise the rights or well-being of others, including unrealistic productivity expectations, fabrication, falsification, plagiarism of documentation, or inaccurate coding. (Principle: Nonmaleficence; key words: productivity, documentation, coding, fraud)

CASE

Vinh is an occupational therapist who has just started a new job in rehab facility. On Vinh's fourth day at work, a client phones in to cancel her mid-morning appointment. The rehab supervisor overhears the receptionist telling Vinh that her client won't be coming in and tells Vinh to be sure to document the treatment as if it had taken place. When Vinh questions the ethics of doing so, her supervisor states, "We reserved the time, so it counts as an appointment."

Later, the rehab supervisor pulls Vinh aside and says, "Look, I know you're new here, so you probably aren't aware that we're struggling financially. None of us wants to lose our jobs, so we usually just pad the minutes a little bit. Besides, it's just the government and big insurers who are paying for the services, and they'll be none the wiser. We can count on you to be a team player, can't we?"

Discussion

Should Vinh do as the rehab supervisor asks?

No. According to Section 3 of the Standards of Conduct, it is Vinh's ethical duty to "maintain complete, accurate, and timely records of all client encounters," and falsifying records clearly violates the *AOTA Occupational Therapy Code of Ethics*. Based on the Principle of Justice, Standard 3A states that occupational therapy personnel shall "bill and collect fees justly and legally ... and commensurate with services delivered," and Standard 3B states requires that "documentation for reimbursement purposes is done in accordance with applicable laws, guidelines, and regulations."



Under the Principle of Nonmaleficence, Standard 3D states that occupational therapy personnel shall “not follow arbitrary directives that compromise the rights or well-being of others, including unrealistic productivity expectations, fabrication, falsification, plagiarism of documentation, or inaccurate coding.”

As a new employee, Vinh may feel especially uneasy about questioning her supervisor’s instructions. Nevertheless, it is very important that she speak again with the rehab supervisor—and perhaps the facility’s director—to explain her unwillingness to record false information in violation of professional ethical standards and, quite likely, legal requirements.

If her supervisor insists upon continuing with false documentation, Vinh should “take action to resolve incompetent, disruptive, unethical, illegal, or impaired practice in self or others” as described under the Standard 5E (Principle: Fidelity). This may include reporting to appropriate authorities any acts that are unethical or illegal (see also “Ethics Violations” later in this course). Vinh may also wish to consider seeking other employment if necessary.

SECTION 4: SERVICE DELIVERY

Occupational therapy personnel strive to deliver quality services that are occupation based, client centered, safe, interactive, culturally sensitive, evidence based, and consistent with occupational therapy’s values and philosophies.

4A. Respond to requests for occupational therapy services (e.g., referrals) in a timely manner as determined by law, regulation, or policy. (Principle: Justice; key words: occupational therapy process, referral, law)

4B. Provide appropriate evaluation and a plan of intervention for recipients of occupational therapy services specific to their needs. (Principle: Beneficence; key words: occupational therapy process, evaluation, intervention)

4C. Use, to the extent possible, evaluation, planning, intervention techniques, assessments, and therapeutic equipment that are evidence based, current, and within the recognized scope of occupational therapy practice. (Principle: Beneficence; key words: occupational therapy process, evaluation, intervention, evidence, scope of practice)

4D. Obtain informed consent (written, verbal, electronic, or implied) after disclosing appropriate information and answering any questions posed by the recipient of service, qualified family member or caregiver, or research participant to ensure voluntary participation. (Principle: Autonomy; key words: occupational therapy process, informed consent)

4E. Fully disclose the benefits, risks, and potential outcomes of any intervention; the occupational therapy personnel who will be providing the intervention; and any reasonable alternatives to the proposed intervention. (Principle: Autonomy; key words: occupational therapy process, intervention, communication, disclose, informed consent)



4F. Describe the type and duration of occupational therapy services accurately in professional contracts, including the duties and responsibilities of all involved parties. (Principle: Veracity; key words: occupational therapy process, intervention, communication, disclose, informed consent, contracts)

4G. Respect the client's right to refuse occupational therapy services temporarily or permanently, even when that refusal has potential to result in poor outcomes. (Principle: Autonomy; key words: occupational therapy process, refusal, intervention, service recipients)

4H. Provide occupational therapy services, including education and training, that are within each practitioner's level of competence and scope of practice. (Principle: Beneficence; key words: occupational therapy process, services, competence, scope of practice)

4I. Reevaluate and reassess recipients of service in a timely manner to determine whether goals are being achieved and whether intervention plans should be revised. (Principle: Beneficence; key words: occupational therapy process, reevaluation, reassess, intervention)

4J. Terminate occupational therapy services in collaboration with the service recipient or responsible party when the services are no longer beneficial. (Principle: Beneficence; key words: occupational therapy process, termination, collaboration)

4K. Refer to other providers when indicated by the needs of the client. (Principle: Beneficence; key words: occupational therapy process, referral, service recipients)

4L. Provide information and resources to address barriers to access for persons in need of occupational therapy services. (Principle: Justice; key words: beneficence, advocate, access)

4M. Report systems and policies that are discriminatory or unfairly limit or prevent access to occupational therapy. (Principle: Justice; key words: discrimination, unfair, access, social justice)

4N. Provide professional services within the scope of occupational therapy practice during community-wide public health emergencies as directed by federal, state, and local agencies. (Principle: Beneficence; key words: disasters, emergency)

CASE

Angela, an occupational therapist, works in a skilled nursing facility. She currently has a client on her caseload who is classified at the "Ultra High" reimbursement level. The client's condition has recently worsened, and the client is now in a coma. Based on her client's condition, Angela is having a difficult time completing her treatments and does not provide the required amount of treatment time to qualify for this level of reimbursement.

After the third day of attempting to acquire the appropriate amount of time with this client, Angela reports to the rehab manager that she feels this reimbursement level is not appropriate. Angela also informs her manager that she is not able to provide services that are within her scope of practice to a patient who is in a coma and that this client should be discharged from occupational therapy services due to no longer requiring such services.



Angela's manager disagrees with her and tells Angela that if she doesn't continue to treat this client and obtain the necessary amount of time to meet the reimbursement level, then she may be terminated for insubordination.

Discussion

Should Angela continue to classify this patient as "Ultra High" as directed by her manager? What further action by Angela reflects ethical practice?

According to Standards 4B, 4H, and 4J of the *AOTA Occupational Therapy Code of Ethics*, Angela must reclassify the patient. Standard 4B (Principle: Beneficence) states that occupational therapy practitioners shall "provide appropriate evaluation and a plan of intervention for recipients of occupational therapy services specific to their needs." Standard 4H states that occupational therapy personnel shall "provide occupational therapy services, including education and training, that are within each practitioner's level of competence and scope of practice." And Standard 4J states that occupational therapy personnel shall "terminate occupational therapy services in collaboration with the service recipient or responsible party when the services are no longer beneficial."

Angela asks to meet again with her manager and explains her intention to reclassify the patient according to their profession's ethical standards. While she knows that taking this action may cause some pushback from the manager, Angela understands that she must reclassify the patient. Angela's manager agrees to meet with her, and Angela presents her rationale and evidence that this is an ethical dilemma based on the Standards of Practice she believes are being violated. Angela's manager agrees with her and determines that it is appropriate to decrease the classification from "Ultra High" to "Low" until the patient shows signs that they are able to engage in more therapy based on their condition and diagnosis.

SECTION 5: PROFESSIONAL COMPETENCE, EDUCATION, SUPERVISION, AND TRAINING

Occupational therapy personnel maintain credentials, degrees, licenses, and other certifications to demonstrate their commitment to develop and maintain competent, evidence-based practice.

5A. Hold requisite credentials for the occupational therapy services one provides in academic, research, physical, or virtual work settings. (Principle: Justice; key words: credentials, competence)

5B. Represent credentials, qualifications, education, experience, training, roles, duties, competence, contributions, and findings accurately in all forms of communication. (Principle: Veracity; key words: credentials, competence)

5C. Take steps (e.g., professional development, research, supervision, training) to ensure proficiency, use careful judgment, and weigh potential for harm when generally recognized standards do not exist in emerging technology or areas of practice. (Principle: Beneficence; key words: credentials, competence)



5D. Maintain competence by ongoing participation in professional development relevant to one's practice area. (Principle: Beneficence; key words: credentials, competence)

5E. Take action to resolve incompetent, disruptive, unethical, illegal, or impaired practice in self or others. (Principle: Fidelity; key words: competence, law)

5F. Ensure that all duties delegated to other occupational therapy personnel are congruent with their credentials, qualifications, experience, competencies, and scope of practice with respect to service delivery, supervision, fieldwork education, and research. (Principle: Beneficence; key words: supervisor, fieldwork, supervision, student)

5G. Provide appropriate supervision in accordance with AOTA Official Documents and relevant laws, regulations, policies, procedures, standards, and guidelines. (Principle: Justice; key words: supervisor, fieldwork, supervision, student)

5H. Be honest, fair, accurate, respectful, and timely in gathering and reporting fact-based information regarding employee job performance and student performance. (Principle: Veracity; key words: supervisor, supervision, fieldwork, performance)

5I. Do not participate in any action resulting in unauthorized access to educational content or exams, screening and assessment tools, websites, and other copyrighted information, including but not limited to plagiarism, violation of copyright laws, and illegal sharing of resources in any form. (Principle: Justice; key words: plagiarize, student, copyright, cheating)

5J. Provide students with access to accurate information regarding educational requirements and academic policies and procedures relative to the occupational therapy program or educational institution. (Principle: Veracity; key words: education, student)

SECTION 6: COMMUNICATION

Whether in written, verbal, electronic, or virtual communication, occupational therapy personnel uphold the highest standards of confidentiality, informed consent, autonomy, accuracy, timeliness, and record management.

6A. Maintain the confidentiality of all verbal, written, electronic, augmentative, and nonverbal communications in compliance with applicable laws, including all aspects of privacy laws and exceptions thereto (e.g., Health Insurance Portability and Accountability Act, Family Educational Rights and Privacy Act). (Principle: Autonomy; key words: law, autonomy, confidentiality, communication, justice)

6B. Maintain privacy and truthfulness in delivery of occupational therapy services, whether in person or virtually. (Principle: Veracity; key words: telecommunication, telehealth, confidentiality, autonomy)



6C. Preserve, respect, and safeguard private information about employees, colleagues, and students unless otherwise mandated or permitted by relevant laws. (Principle: Fidelity; key words: communication, confidentiality, autonomy)

6D. Demonstrate responsible conduct, respect, and discretion when engaging in digital media and social networking, including but not limited to refraining from posting protected health or other identifying information. (Principle: Autonomy; key words: communication, confidentiality, autonomy, social media)

6E. Facilitate comprehension and address barriers to communication (e.g., aphasia; differences in language, literacy, health literacy, or culture) with the recipient of service (or responsible party), student, or research participant. (Principle: Autonomy; key words: communication, barriers)

6F. Do not use or participate in any form of communication that contains false, fraudulent, deceptive, misleading, or unfair statements or claims. (Principle: Veracity; key words: fraud, communication)

6G. Identify and fully disclose to all appropriate persons any errors or adverse events that compromise the safety of service recipients. (Principle: Veracity; key words: truthfulness, communication, safety, clients, service recipients)

6H. Ensure that all marketing and advertising are truthful, accurate, and carefully presented to avoid misleading recipients of service, research participants, or the public. (Principle: Veracity; key words: truthfulness, communication)

6I. Give credit and recognition when using the ideas and work of others in written, oral, or electronic media (i.e., do not plagiarize). (Principle: Veracity; key words: truthfulness, communication, plagiarism, students)

6J. Do not engage in verbal, physical, emotional, or sexual harassment of any individual or group. (Principle: Fidelity; key words: inappropriate communication, harassment, digital media, social media, social networking, professional civility)

6K. Do not engage in communication that is discriminatory, derogatory, biased, intimidating, insensitive, or disrespectful or that unduly discourages others from participating in professional dialogue. (Principle: Fidelity; key words: inappropriate communication, professionalism, professional civility)

6L. Engage in collaborative actions and communication as a member of interprofessional teams to facilitate quality care and safety for clients. (Principle: Fidelity; key words: communication, collaboration, interprofessional, professional civility, service recipients)



SECTION 7: PROFESSIONAL CIVILITY

Occupational therapy personnel conduct themselves in a civil manner during all discourse. Civility “entails honoring one’s personal values while simultaneously listening to disparate points of view” (Kaslow & Watson, 2016).

7A. Treat all stakeholders professionally and equitably through constructive engagement and dialogue that is inclusive, collaborative, and respectful of diversity of thought. (Principle: Justice; key words: civility, diversity, inclusivity, equitability, respect)

7B. Demonstrate courtesy, civility, value, and respect to persons, groups, organizations, and populations when engaging in personal, professional, or electronic communications, including all forms of social media or networking, especially when that discourse involves disagreement of opinion, disparate points of view, or differing values. (Principle: Fidelity; key words: values, respect, opinion, points of view, social media, civility)

7C. Demonstrate a level of cultural humility, sensitivity, and agility within professional practice that promotes inclusivity and does not result in harmful actions or inactions with persons, groups, organizations, and populations from diverse backgrounds including age, gender identity, sexual orientation, race, religion, origin, socioeconomic status, degree of ability, or any other status or attributes. (Principle: Fidelity; key words: civility, cultural competence, diversity, cultural humility, cultural sensitivity)

7D. Do not engage in actions that are uncivil, intimidating, or bullying or that contribute to violence. (Principle: Fidelity; key words: civility, intimidation, hate, violence, bullying)

7E. Conduct professional and personal communication with colleagues, including electronic communication and social media and networking, in a manner that is free from personal attacks, threats, and attempts to defame character and credibility directed toward an individual, group, organization, or population without basis or through manipulation of information. (Principle: Fidelity; key words: civility, culture, communication, social media, social networking, respect)

Ethics Violations

The “Enforcement Procedures for the *AOTA Occupational Therapy Code of Ethics*” articulates the procedures followed by the Association’s Ethics Commission (EC) as it carries out its duties to enforce the Code. A primary goal of these Enforcement Procedures is to ensure objectivity and fundamental fairness to all individuals who may be parties in an ethics complaint. The Enforcement Procedures help ensure compliance with the Code’s enforceable Principles and Standards of Conduct that apply to Association members (AOTA, 2019).

SUBMITTING A COMPLAINT

The Ethics Commission receives, deliberates, and acts upon complaints when they are filed against AOTA members or individuals who were AOTA members at the time of the alleged



incident. A **formal complaint form** must be submitted by mail and completely filled out and include the following:

- Name, address, and contact information of both the complainant (the individual filing the complaint) and respondent (the individual against whom the complaint is being filed)
- Written summary of the facts and circumstances, including dates and events, that support a violation of the Code and steps, if any, that were taken to resolve the complaint before filing
- Signature of the individual filing the complaint
- Identification of any additional agencies or organizations with which a complaint has been filed

The complaint form and supporting documentation, including any attachments, must be mailed to the address on the complaint form, and clearly marked “Confidential, Attn: Ethics Program.” Please note that the EC **does not accept** anonymous complaints or those submitted by telephone or facsimile (AOTA, 2021).

SUPPORTING DOCUMENTATION

Supporting documentation includes information, evidence, and facts upon which the complaint is based and must be attached to the complaint form. Any confidential information (i.e., client, patient, or employment records) that are submitted must have identifying information (i.e., names, Social Security numbers, etc.) redacted. Numbers or letters may be used to substitute for names when referring to specific documents or records.

Complaint information and documentation may include but is not limited to:

- Claimant’s relationship with the respondent or circumstances of acquaintance
- Date(s) of the incident(s)
- How and when the alleged violation became known to the claimant
- A description of the respondent’s actions and behavior that are allegedly in violation of the Code and the specific Principles allegedly violated (i.e., “Principle 2, Standards of Conduct A, B, and D”)
- Descriptions or copies of communication with others that are relevant to this incident
- Date and type of any actions taken to address the violation, including reports to other agencies and written or verbal communication to the respondent or others
- Signed and dated witness statements, if applicable



A copy of the complaint form and supporting documentation will be provided to the respondent and to EC members. All information related to a potential ethics complaint is confidential and available only to the respondent, EC members, and the AOTA ethics staff (AOTA, 2021).

ETHICS COMMISSION PROCESS AND TIMELINES

The EC process of handling a complaint is designed to ensure fundamental fairness, objectivity, and confidentiality to all parties before a final decision is reached. The EC generally holds monthly conference call meetings to review and deliberate on complaint submissions. The initial review process typically occurs within 30 to 60 days and may not exceed 90 days from the date the complaint is received. All communication from the EC will be in writing and sent via Certified Mail, Return Receipt Requested.

The timeline for investigating and rendering a decision on a complaint varies from several months to about a year, depending on the timeliness of responses to correspondence and whether or not the respondent requests an appeal. No information will be provided to the complainant until a final decision (including appeals) has been rendered (AOTA, 2021).

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

DISCIPLINARY ACTIONS AND SANCTIONS

If the EC determines that unethical conduct has occurred, it may impose sanctions, including reprimand, censure, probation (with terms), suspension, or permanent revocation of AOTA membership. In all cases, except those involving only reprimand (and educative letters), the AOTA will report the conclusions and sanctions in its official publications and will also communicate to any appropriate persons or entities. The potential sanctions are defined as follows:

- **Reprimand:** A formal expression of disapproval of conduct communicated privately by letter from the EC Chairperson that is nondisclosable and noncommunicative to other bodies (e.g., state regulatory boards or National Board for Certification in Occupational Therapy). Reprimand is not publicly reported.
- **Censure:** A formal expression of disapproval that is publicly reported.
- **Probation of membership subject to terms:** Continued AOTA membership is conditional, depending on fulfillment of specified terms. Failure to meet terms will subject an individual to any of the disciplinary actions or sanctions. Terms may include but are not limited to: a) remedial activity, applicable to the violation, with proof of satisfactory completion by a specific date and b) the corrected behavior, which is expected to be maintained. Probation is publicly reported.
- **Suspension:** Removal of Association membership and eligibility to obtain or renew membership for a specified period of time. Suspension is publicly reported.



- **Revocation:** Permanent denial of Association membership. Revocation is publicly reported.

Further details regarding filing complaints, review and investigations processes, disciplinary council, and appeals are provided in the “Enforcement Procedures for the *AOTA Occupational Therapy Code of Ethics*” (AOTA, 2019).

LEGAL ISSUES AND OCCUPATIONAL THERAPY PRACTICE

Occupational therapists and occupational therapy assistants practice within a society governed by laws. Laws flow from ethical principles and are limited to specific situations and codified by detailed language. These rules of conduct are formulated by an authority with power to enforce them. Each state’s legislature has the power to create and enforce laws governing the profession of occupational therapy, including licensure.

SOURCES OF LAW		
	Statutory	Administrative
Source	Laws passed by legislative bodies of federal, state, and local governments	Executive powers, delegated by the legislative branch
Functions	Protects and provides for the general welfare of society	Carries out special duties of various agencies
Example	The state legislature passes an Occupational Therapy Practice Act and establishes an Occupational Therapy Board, with the details described in that state’s legal statutes.	The state’s Occupational Therapy Board adopts rules governing the licensure and standards for the practice of occupational therapy within that state, as described in the state’s administrative code.

Civil Vs. Criminal 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, 2018).

It is important to be aware that an action can potentially be both criminal and civil in nature (Stanford & Connor, 2020).



TYPES OF LAW	
CIVIL LAW	
Function/Goal	To redress wrongs and injuries suffered by individuals
Types	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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
(University of Minnesota Open Library, 2018)	

State Occupational Therapy Practice Acts

In the United States, occupational 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 a therapist practices. All occupational therapy licenses must be renewed on a regular basis (which varies by state), and most states require the completion of some level of continuing education in order for a licensee to qualify for license renewal.

Occupational therapists must practice within the scope of occupational therapy practice defined by individual states' occupational therapy practice acts. States' occupational therapy practice acts include rules and requirements for educational institutions and practitioners regarding:

- Scope of practice
- Licensure
- Competency



- Disciplinary sanctions
- Supervision of occupational therapy assistants

Each state practice act may have language that differs from other states in regard to evaluation/reevaluation, delegation and supervision of occupational therapy assistants, specific areas of practice restriction, or issues of direct access.

The goal of occupational therapy practice acts and their administrative boards is to protect the public by setting standards for occupational therapy education and practice. It is the responsibility of practitioners to know and abide by the provisions of these acts and abide by the rules and regulations of the state(s) in which they are licensed.

It is a **criminal offense** to violate provisions of a state's occupational therapy practice act. When individuals or agencies believe an occupational therapist or occupational therapy assistant has violated a provision of a state's practice act, they may complain to the administrative board of that state. This board will investigate the allegations, and if sufficient evidence is found to support the complaint, state attorneys may file a complaint against the licensee.

Although occupational therapy practice acts vary from state to state, they contain similar grounds for complaints, such as:

- Obtaining a license by fraud
- Practicing in a grossly incompetent or negligent manner
- Diverting controlled substances for personal use
- Being convicted of a felony

It is the responsibility of license holders to know, understand, and obey the rules and regulations of the state in which they are licensed to practice. (See also "Resources" at the end of this course.)

CASE

Alexa is an occupational therapist who works in an outpatient pediatric clinic. 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 teenage son dropped out of high school.

With all the recent upheaval in her personal life, Alexa accidentally misplaced the letter from the state occupational therapy board regarding her upcoming licensure renewal deadline. Three weeks after the 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 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 the practice act specific to their state, including payment of applicable penalties and completion of requisite paperwork. In addition, they would need to call the state occupational therapy board in order to explain the situation and to determine if Alexa would be 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 an approved continuing education course that was being offered a few hours away. Jade assisted Alexa in finding respite care for her elderly father and making arrangements 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 Torts

(The information in this section is in no way intended to be a substitute for professional legal advice.)

Civil law is concerned with harm against individuals, including breaches of contracts and torts. A civil action is considered a wrong between individuals, such as defamation of character. Its purpose is to make right the wrongs and injuries suffered by individuals, usually by assigning monetary compensation (Stanford & Connor, 2020).

A **contract** is a legally binding agreement between two or more parties. Breaking such an agreement—such as a written employment agreement between a healthcare agency and an occupational therapist—is called a breach of contract. Both parties to a contract must do exactly what they agreed to do or they risk legal action being taken against them. For that reason, it is vital that each party clearly understands all the terms of a contractual agreement before signing it.

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, 2020)

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 their 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.

Examples of assault and battery in a healthcare context are:

- Forcing a client to submit to treatments for which they have 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
(LSU 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 spoken, 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, 2020).

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.

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 business's bank account (Stanford & Connor, 2020).

CASE

Riley, an occupational therapist, was chatting with her neighbor, Sonja, 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 came in for an appointment the other day. You know Manny, who works at the auto repair shop down the street? Well, he was just referred to our 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 Standard of Conduct in the *AOTA Occupational Therapy Code of Ethics* by disclosing confidential client information without authorization, as well as voicing personal and nonobjective opinions about this client. She had also put herself at risk of legal action due to slander.

Discussion

Riley violated her patient Manny's right to confidentiality as protected by Standard 6B (Principle: Veracity), which requires occupational therapy personnel to "maintain privacy and truthfulness in delivery of occupational therapy services, whether in person or virtually."



Divulging her patient's identity also breached federal laws under HIPAA, which expressly prohibit sharing of confidential patient information with unauthorized individuals.

Riley also violated Standard 7B (Principle: Fidelity) of the Code, which states that occupational therapy personnel shall "demonstrate courtesy, civility, value, and respect to persons, groups, organizations, and populations when engaging in personal, professional, or electronic communications, including all forms of social media or networking, especially when that discourse involves disagreement of opinion, disparate points of view, or differing values."

In this situation, not only has Riley violated the Code by disclosing confidential information, if the matter were to become known to her client, a legal suit of slander could be realistically be 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 and privacy laws expressly prohibit sharing of confidential patient information with unauthorized individuals.

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.

Components of Negligent Care

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

- **Duty** is established when a healthcare professional agrees to treat a patient.
- **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. Breaches fall under three general categories:
 - Misfeasance occurs when a mistake is made (e.g., administering a treatment to the wrong patient unknowingly because the patient had the same or similar name).
 - Nonfeasance occurs when a healthcare professional fails to act (e.g., not calling the paramedics when an OT initiates a home care evaluation and finds the patient lying on the floor after sustaining a fall; or not reporting signs of abuse or neglect for a client currently receiving services).
 - Malfeasance occurs when the negligence action involves questionable intent (e.g., by physically pulling a resistant patient from bed by their wrists instead of using a gait belt, thereby causing bruises on the patient's wrist).



- **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.
- **Damages** refers to the actual injuries inflicted by the accused for which compensation is owed.
(Stanford & Connor, 2020)

CONCLUSION

As occupational therapy practitioners 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. Occupational therapists and occupational therapy 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 occupational therapy professionals have been established in the *OTA Occupational Therapy Code of Ethics* and codified into law in the occupational therapy practice acts of individual states and other jurisdictions within the United States. Continuing competence in both ethics and law is vital for all practicing occupational therapy professionals, regardless of experience level or practice setting.



RESOURCES

OTA Occupational Therapy Code of Ethics
<https://doi.org/10.5014/ajot.2020.74S3006>

Enforcement Procedures for the *OTA Occupational Therapy Code of Ethics*
<https://doi.org/10.5014/ajot.2019.73S210>

HIPAA for professionals (U.S. DHHS)
<https://www.hhs.gov/hipaa/for-professionals/index.html>

How to file an ethics complaint (OTA)
<https://www.aota.org/Practice/Ethics/Complaint.aspx>
800-877-1383, ext. 1942

OT state licensure boards
<https://www.occupationaltherapy.com/state-licensure-boards/>

State OT statutes and regulations (OTA)
<https://www.aota.org/Advocacy-Policy/State-Policy/Licensure/StateRegs.aspx>



REFERENCES

- Amer AB. (2019). Understanding the ethical theories in medical practice. *Open Journal of Nursing, 9*, 188–93. doi:10.4236/ojn.2019.92018
- American Occupational Therapy Association (AOTA). (2021). How to file an ethics complaint. Retrieved from <https://www.aota.org/Practice/Ethics/Complaint.aspx>
- American Occupational Therapy Association (AOTA). (2020). Occupational therapy code of ethics. *American Journal of Occupational Therapy, 74*(Suppl. 3), 7413410005. Retrieved from <https://doi.org/10.5014/ajot.2020.74S3006>
- American Occupational Therapy Association (AOTA). (2019). Enforcement procedures for the AOTA occupational therapy code of ethics. *American Journal of Occupational Therapy, 73*(Suppl. 2), 7312410003. Retrieved from <https://doi.org/10.5014/ajot.2019.73S210>
- Beauchamp TL & Childress JF. (2019). *Principles of biomedical ethics* (8th ed.). New York: Oxford University Press.
- Castillo LS, Williams BA, Hooper SM, et al. (2011). Lost in translation: the unintended consequences of advance directive law on clinical care. *Ann Intern Med, 154*(2), 121–8.
- Doherty R & Purtilo R. (2016). *Ethical dimensions in the health professions* (6th ed.). Philadelphia: Elsevier Saunders
- The Free Dictionary. (n.d.-a). Law. Retrieved from <https://legal-dictionary.thefreedictionary.com>
- The Free Dictionary. (n.d.-b). Ethics. Retrieved from <https://www.thefreedictionary.com>
- Hegde S. (2019). What is an ethical dilemma? Retrieved from <https://www.scienceabc.com>
- Kaslow NJ & Watson NN. (2016). Civility: a core component of professionalism? *Psychology Teacher Network, 26*(3). Retrieved from <https://www.apa.org/ed/precollege/ptn/2016/09/civility-professionalism>
- Louisiana State University (LSU) Law Center. (2018). False imprisonment. Retrieved from <https://biotech.law.lsu.edu/books/aspen/Aspen-False.html>
- Mintz S. (2019). Ethical decision-making process: turning philosophy into action. Retrieved from <https://www.ethicssage.com>
- Stanford CC & Connor VJ. (2020). *Applied law and ethics for health professionals* (2nd ed.). Burlington, MA: Jones and Bartlett Learning.
- University of Minnesota Open Library. (2018). Criminal law. Retrieved from <http://open.lib.umn.edu/criminallaw/chapter/1-3-the-difference-between-civil-and-criminal-law/>
- Veatch RM, Haddad AM, & English DC. (2015). *Case studies in biomedical ethics: decision-making, principles, and cases* (2nd ed.). New York: Oxford University Press.
- Washington State Hospital Association (WSHA). (2014). End of life care manual. Retrieved from <http://www.wsha.org/eol-fedstate.cfm>





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TEST

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1. Ethics is concerned with:
 - a. The system of moral principles that govern human behavior.
 - 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. An occupational therapist decides to give a hospital's rollator walker to a patient who needs the walker in order to safely ambulate, but the therapist does not ask the hospital's permission or ask the patient to pay for the walker because the patient is uninsured and cannot afford to purchase one. The therapist's decision to help the patient in need even if it involves taking hospital property without permission is an example of which type of ethical theory?
 - a. Deontological
 - b. Principalism
 - c. Teleological
 - d. Duty ethics

3. 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 occupational therapy practice act.

4. When an occupational therapist insists that a patient get out of bed and participate in therapy after the patient repeatedly states that they do not feel well and want to stay in bed, the therapist is violating which Principle of the *AOTA Occupational Therapy Code of Ethics*?
 - a. Beneficence
 - b. Nonmaleficence
 - c. Autonomy
 - d. Justice



5. Which is a **correct** statement regarding the *AOTA Occupational Therapy Code of Ethics* Standard of professional civility for occupational therapy personnel?
- The Standard does not apply to personal communications conducted via social media.
 - Professional practice promotes inclusivity among persons with diverse gender identities.
 - Occupational therapists are not expected to engage with those who hold differing values.
 - One must set aside personal values if they are in conflict with others' points of view.
6. Which sanction for unethical conduct is **not** publicly reported by the AOTA Ethics Commission?
- Reprimand
 - Censure
 - Probation of membership
 - Suspension
7. The **goal** of state occupational therapy acts is to:
- Create an administrative body to define occupational therapy.
 - Describe the scope of practice of occupational therapy.
 - State the competency requirements of occupational therapists.
 - Protect the public by setting standards of education and practice.
8. An occupational therapist did not review a chart for a patient recovering from hip surgery and used "weight bear as tolerated" instead of the prescribed "toe-touch weight bearing only." The error was identified after the patient reported severe pain in the operative hip. The therapist's action is an example of:
- Malfeasance.
 - Negligence.
 - An intentional tort.
 - A criminal offense.

