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Contact Hours: **2**

Ethics, Laws, and Regulations for California Physical Therapy

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LEARNING OUTCOME AND OBJECTIVES: 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 to address potential learning gaps include:

- Define “ethics.”
- Summarize the fundamental ethical principles generally associated with the practice of healthcare.
- Discuss the American Physical Therapy Association’s (APTA) “Code of Ethics for the Physical Therapist.”
- Discuss APTA’s “Standards of Ethical Conduct for the Physical Therapist Assistant.”
- Outline 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 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 (Merriam-Webster, 2024a). Physical therapists and physical therapist assistants must practice according to the ethical principles of their profession as described in the *Code of Ethics for the Physical Therapist* and the *Standards of Ethical Conduct for the Physical Therapist Assistant* (see below).

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 “a rule of conduct or action prescribed or formally recognized as binding or enforced by a controlling authority” (Merriam-Webster, 2024b). Physical therapists and physical therapist assistants must practice according to the laws that govern their society as well as their physical therapy practice.

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 physical therapist assistants as well as for the profession as a whole (FSBPT, 2024).

Ethical Theories

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 by the examples below:

- **Descriptive (comparative) ethics** 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. *Example: asking a group of subjects whether they consider it right or wrong for a man to steal a drug to save his wife’s life, with the aim of describing the moral reasoning that lay behind their decisions* (Johnstone, 2023).
- **Normative (prescriptive) ethics** observe and describe what people consider to be right or wrong and then come to a conclusion about what is or is not right in that society. Such theories prescribe how people ought to act. *Example: determining whether it is indeed right or wrong for a man to steal a drug to save his wife’s life according to society’s ethical standards.*
- **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. *Example: withholding bad news from a patient because doing so will help the patient in the long run.*
- **Deontological ethical theory** argues that the motivation or intention for one’s action, as opposed to the consequences of the action, determines whether the action is right or wrong (Britannica, 2023). *Example: not restraining a patient against their will even if it may help the patient in some way.*



Ethical 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 or side effects that may potentially result from providing healthcare interventions.
- **Justice** refers to treating all patients fairly and equally in similar situations, regardless of a patient's age, disability status, socioeconomic status, race, religion, gender identification, sexual orientation, or other background factors.

These four ethical principles are general standards of conduct by which actions can be measured (Varkey, 2021; Johnstone, 2023).

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 (McNamara, 2023).

Ethical Dilemmas

An ethical dilemma is a conflict between choices that, no matter which choice is made, some ethical principle will be compromised. How to determine what is morally “right” is rarely straightforward.

A physical therapist who encounters an ethical dilemma at work is confronted by the following three basic questions:

- What should I do?



- What is the morally “right” thing to do?
- How do I ensure that my actions are morally “right”?
(Johnstone, 2023)

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

1. Consider the consequences of both choices, particularly the positive and negative results from each.
2. Consider the actions of those choices. Do one’s actions line up with the moral principles regarding honesty, fairness, and respect for other people?
3. Decide what to do and explain one’s reasoning to those who are affected by the decision.
(Hegde, 2023)

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 physical therapy 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 he has been hesitant to discuss his discomfort with his nurses because, in his words, “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. Ankinga’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 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.

The American Physical Therapy Association (APTA) is the definitive source for standards of ethics in the physical therapy profession. In order to assert the values and standards expected of members of the profession of physical therapy, the APTA publishes the *Code of Ethics for the Physical Therapist*, *Standards of Ethical Conduct for the Physical Therapist Assistant*, *Core Values for the Physical Therapist and Physical Therapist Assistant*, and *Standards of Practice for Physical Therapy*. These four documents are regularly revised and updated, with the latest codes and standards effective 2020 (APTA, 2024).

Portions of these documents are discussed 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 the Code of Ethics are to:

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



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.

The Code of Ethics is applicable to all physical therapists and may change in response to evolving patterns of health care delivery and changing dynamics of the profession as a whole. 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.

ROLES, CORE VALUES, AND REALMS OF ETHICAL ACTION

The APTA's *Code of Ethics for the Physical Therapist* delineates five roles, eight 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 and clients
2. Consultation
3. Education
4. Research
5. Administration

Core values which physical therapists are expected to exemplify include:

1. Accountability
2. Altruism
3. Collaboration
4. Compassion/caring
5. Duty
6. Excellence
7. Integrity
8. Social responsibility

Realms of ethical action for physical therapists include:

1. Individual
2. Organizational



3. Societal

PRINCIPLES

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.

1. Physical therapists shall respect the inherent dignity and rights of all individuals. (Core Values: Compassion and Caring, 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 and clients. (Core Values: Altruism, Collaboration, Compassion and Caring, Duty)
 - A. Physical therapists shall adhere to the core values of the profession and shall act in the best interests of patients and clients over the interests of the physical therapist.
 - B. Physical therapists shall provide physical therapist services with compassionate and caring behaviors that incorporate the individual and cultural differences of patients and clients.
 - C. Physical therapists shall provide the information necessary to allow patients or their surrogates to make informed decisions about physical therapist care or participation in clinical research.
 - D. Physical therapists shall collaborate with patients and clients to empower them in decisions about their healthcare.
 - E. Physical therapists shall protect confidential patient and 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: Collaboration, Duty, Excellence, Integrity)
 - A. Physical therapists shall demonstrate independent and objective professional judgment in the patient's or 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 and 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 and clients, families, colleagues, students, research participants, 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 not engage in any sexual relationship with any of their patients and clients, supervisees, or students.
 - D. Physical therapists shall not harass anyone verbally, physically, emotionally, or sexually.
 - E. Physical therapists shall discourage misconduct by physical therapists, physical therapist assistants, and other healthcare professionals and, when appropriate, report illegal or unethical acts, including verbal, physical, emotional, or sexual harassment, to an appropriate authority with jurisdiction over the conduct.
 - F. Physical therapists shall report suspected cases of abuse involving children or vulnerable adults to the appropriate authority, subject to law.
5. Physical therapists shall fulfill their legal and professional obligations. (Core Values: Accountability, Duty, Social Responsibility)
- 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 therapist 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 a colleague is 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 or client continues to need physical therapist 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 techniques into practice.
 - D. Physical therapists shall cultivate practice environments that support professional development, lifelong learning, and excellence.
7. Physical therapists shall promote organizational behaviors and business practices that benefit patients and 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 therapist 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 and clients.
 - E. Physical therapists shall be aware of charges and shall ensure that documentation and coding for physical therapist 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 and clients.
8. Physical therapists shall participate in efforts to meet the health needs of people locally, nationally, or globally. (Core Value: Social Responsibility)



- A. Physical therapists shall provide pro bono physical therapist 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 therapist services.
- D. Physical therapists shall educate members of the public about the benefits of physical therapy and the unique role of the physical therapist.

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 skilled 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 skilled debridement independently. 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 for 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 skilled 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 APTA. The Standards of Ethical Conduct provide a foundation for conduct to which all physical therapist assistants shall adhere. Physical therapist assistants are guided by a set of core values that include accountability, altruism, collaboration, compassion and caring, duty, excellence, integrity, and social responsibility. Fundamental to the Standards of Ethical Conduct is the special obligation of physical therapist assistants to enable patients and 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. (Core Values: Compassion and Caring, Integrity)
 - 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 therapist services.
2. Physical therapist assistants shall be trustworthy and compassionate in addressing the rights and needs of patients and clients. (Core Values: Altruism, Collaboration, Compassion and Caring, Duty)
 - A. Physical therapist assistants shall act in the best interest of patients and clients over the interests of the physical therapist assistant.
 - B. Physical therapist assistants shall provide physical therapist interventions with compassionate and caring behaviors that incorporate the individual and cultural differences of patients and clients.
 - C. Physical therapist assistants shall provide patients and clients with information regarding the interventions they provide.



- D. Physical therapist assistants shall protect confidential patient and 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. (Core Values: Collaboration, Duty, Excellence, Integrity)
 - A. Physical therapist assistants shall make objective decisions in the patient's and client's best interests in all practice settings.
 - B. Physical therapist assistants shall be guided by information about best practice regarding physical therapist interventions.
 - C. Physical therapist assistants shall make decisions based upon their level of competence and consistent with patient and 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 therapist services under the direction and supervision of a physical therapist and shall communicate with the physical therapist when patient or client status requires modifications to the established plan of care.
4. Physical therapist assistants shall demonstrate integrity in their relationships with patients and clients, families, colleagues, students, research participants, other healthcare providers, employers, payers, and the public. (Core Values: Integrity)
 - 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 and clients, students, supervisees, research participants, or employees).
 - C. Physical therapist assistants shall not engage in any sexual relationship with any of their patients and clients, supervisees, or students.
 - D. Physical therapist assistants shall not harass anyone verbally, physically, emotionally, or sexually.
 - E. Physical therapist assistants shall discourage misconduct by physical therapists, physical therapist assistants, and other healthcare professionals and, when appropriate, report illegal or unethical acts, including verbal, physical, emotional, or sexual harassment, to an appropriate authority with jurisdiction over the conduct.
 - F. Physical therapist assistants shall report suspected cases of abuse involving children or vulnerable adults to the appropriate authority, subject to law.
5. Physical therapist assistants shall fulfill their legal and ethical obligations. (Core Values: Accountability, Duty, Social Responsibility)



- 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 and 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 their 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 lifelong acquisition and refinement of knowledge, skills, and abilities. (Core Value: Excellence)
 - A. Physical therapist assistants shall achieve and maintain clinical competence.
 - B. Physical therapist assistants shall engage in lifelong 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 lifelong learning.
7. Physical therapist assistants shall support organizational behaviors and business practices that benefit patients and clients and society. (Core Values: Integrity, Accountability)
 - 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 and 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 and clients.
8. Physical therapist assistants shall participate in efforts to meet the health needs of people locally, nationally, and globally. (Core Value: Social Responsibility)
 - 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 health care resources by collaborating with physical therapists in order to avoid overutilization or underutilization of physical therapist services.
- D. Physical therapist assistants shall educate members of the public about the benefits of physical therapy.

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 therapist interventions.”
- Standard 3E: “Physical therapist assistants shall provide physical therapist services under the direction and supervision of a physical therapist and shall communicate with the physical therapist when patient or client status requires modifications 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 or in consultation with a physical therapist.

LEGAL ISSUES AND PHYSICAL THERAPY PRACTICE

Physical therapists and physical therapist assistants practice within a society governed by state and federal law. 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. The state of California has the power to create and enforce laws governing the profession of physical 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 a Physical Therapy Practice Act and establishes the Physical Therapy Board of California, with the details described in the state's legal statutes.	The Physical Therapy Board of California adopts rules governing the licensure and standards for the practice of physical therapy within the 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 determine whether to punish the defendant.
(St. Francis School of Law, 2021)

It is a criminal offense to violate provisions of California's Physical Therapy Practice Act. When individuals or agencies believe a physical therapist or physical therapist assistant has violated a provision of the Practice 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, state attorneys may file a complaint against the licensee.



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 the 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 licensed professional 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 (except in Oregon)
(St. Francis School of Law, 2021)	

Physical Therapy Board of California

The Physical Therapy Examining Committee was created in 1953, forming what is now known as the Physical Therapy Board of California (PTBC). The stated mission of the PTBC is “to advance and protect the interests of the people of California by the effective administration of the Physical Therapy Practice Act.” The PTBC is legislatively charged with protecting the public from any incompetent, unprofessional, and criminal practice of physical therapy through its licensing, regulatory, and disciplinary functions.

The PTBC is one of approximately 30 existing regulatory entities under the organizational structure of the Department of Consumer Affairs (DCA). The PTBC and DCA have a close and cooperative relationship. The PTBC licenses and disciplines physical therapists and physical therapist assistants. The PTBC provides three principal types of consumer services: verification of education and background prior to licensure, provision of information about the practice of physical therapy by physical therapists and physical therapist assistants, and the investigation of complaints made against physical therapists and physical therapist assistants (State of California, 2024a).



Physical therapists must practice within the scope of physical therapy practice defined by the state's Physical Therapy Practice Act (PTPA) (see "Resources" at the end of this course). 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, with licenses expiring on the last day of the licensee's birth month. Practicing with an expired license is against the law. California requires the completion of 30 hours of continuing education in order for a licensee to qualify for license renewal, four of which must include basic life support and two of which must be completed in the area of ethics, laws, and regulation (State of California, 2024c, 2024d).

The PTBC holds responsibility for the investigation of complaints related to potential violations of the state's Physical Therapy Practice Act. 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 PTBC's Consumer Protection Services Program staff review all such complaints in order to ascertain the nature of allegation, whether the complaint is within the jurisdiction of the PTBC, and if a violation of professional governance laws has occurred that would necessitate additional investigation. In the event of potential violation of laws falling within PTBC jurisdiction, allegations will be further investigated, which may result in charges being filed against the licensee in question (State of California, 2024b).

Types of complaints which may be reviewed by the PTBC may include:

- Substandard care (negligence, delayed treatment, etc.)
- Unlicensed practice (or aiding or abetting unlicensed practice)
- Sexual misconduct or harassment
- Unprofessional conduct (e.g., record alteration, breach of confidence, fraud, misleading advertising, arrest or conviction)
- Office practice (e.g., failure to provide medical records to patient, patient abandonment)
- Provider impairment (e.g., drugs, alcohol, mental or physical)
- Criminal offense conviction



The PTBC does not hold jurisdiction over disputes related to billing or fees, general business practices, or personal conflicts—unless a behavior in question impedes the safe delivery of health care services. The PTBC also does not assist with patient care coordination or provide financial compensation (State of California, 2024b).

A physical therapist or physical therapist assistant can be disciplined for a number of reasons. The most serious categories are:

- Sexual misconduct
- Gross negligence (an extreme departure from accepted standards of practice)
- Repeated negligent acts (negligent acts that are not an extreme departure from accepted standards of practice, but still negligent)
- Incompetence (performing procedures that are beyond their training or expertise or continuing to use a procedure that is unnecessary or obsolete)
- Aiding and abetting the practice of physical therapy (inappropriate supervision of PTAs and physical therapy aides)
- Billing fraud or dishonesty (billing for services not provided, filing fraudulent insurance claims)
- Convictions reported to the PTBC from the Department of Justice or other agencies (e.g., misdemeanors or felonies)
(State of California, 2024e)

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 notification from the Physical Therapy Board of California reminding her of her upcoming licensure renewal deadline. Three weeks after the 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

(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 contract 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 (St. Francis School of Law, 2021).

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 a breach of contract (Cornell Law School, n.d.).

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.
(Cornell Law School, 2022a)

INTENTIONAL TORTS

Assault and Battery

Assault is doing or saying anything that makes people apprehend harmful or offensive contact without their consent. The key element of assault is apprehension of contact, for example, threatening to force a resistant client 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. 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 (Cornell Law School, 2022a).

Except in rare circumstances, clients have the right to refuse treatment. Other examples of assault and battery 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
(Cornell Law School, 2022b)



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 physical therapists: 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 (Cornell Law School, 2023).

Invasion of Privacy

Invasion of privacy includes intruding into aspects of a client'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 their own use, such as when an employee appropriates funds from a business's bank account (Cornell Law School, 2022c).

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:

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. 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 a similar name).
 - Nonfeasance occurs when a healthcare professional fails to act (e.g., not calling the paramedics when a physical therapist arrives for 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 negligent 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).
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.
(Maloney Law Group, 2023; Osmond, 2023)

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 and 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 the sharing of confidential patient information with unauthorized individuals.



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

California Physical Therapy Practice Act
https://www.ptbc.ca.gov/laws/pt_practice_act.shtml

Code of Ethics for the Physical Therapist (APTA)
<https://www.apta.org/apta-and-you/leadership-and-governance/policies/code-of-ethics-for-the-physical-therapist>

Core Values for the Physical Therapist and Physical Therapist Assistant (APTA)
<https://www.apta.org/apta-and-you/leadership-and-governance/policies/core-values-for-the-physical-therapist-and-physical-therapist-assistant>

Physical Therapy Board of California
<https://www.ptbc.ca.gov/>

Standards of Ethical Conduct for the Physical Therapist Assistant (APTA)
<https://www.apta.org/apta-and-you/leadership-and-governance/policies/standards-of-ethical-conduct-for-the-physical-therapist-assistant>

Standards of Practice for Physical Therapy
<https://www.apta.org/apta-and-you/leadership-and-governance/policies/standards-of-practice-pt>

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TEST

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1. Which statement is a broad definition of ethics?
 - a. Examining the nature of moral principles that govern behavior
 - b. Protecting society from actions that directly threaten its order
 - c. Punishing members of society for actions that are wrong
 - d. Organizing people to rise up and change society

2. Which ethical theory is practiced when a physical therapist considers a decision to be right solely because their motivation was good even though the client experienced negative consequences?
 - a. Deontological
 - b. Consequential
 - c. Teleological
 - d. Moral

3. Which statement describes the purpose of a code of ethics?
 - 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

4. Which American Physical Therapy Association Core Value is the therapist demonstrating by volunteering with no compensation one weekend each month at a community clinic that serves low-income women and children?
 - a. Excellence
 - b. Accountability
 - c. Social responsibility
 - d. Integrity



5. Which Standard 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?
- Standard 7: Physical therapist assistants shall support organizational behaviors and business practices that benefit patients and clients and society.
 - Standard 3: Physical therapist assistants shall make sound decisions in collaboration with the physical therapist and within the boundaries established by laws and regulations.
 - Standard 2: Physical therapist assistants shall be trustworthy and compassionate in addressing the rights and needs of patients and clients.
 - Standard 4: Physical therapist assistants shall demonstrate integrity in their relationships with patients and clients, families, colleagues, students, research participants, other healthcare providers, employers, payers, and the public.
6. Which offense occurs when a physical therapist violates a regulation of the Physical Therapy Practice Act?
- Misdemeanor
 - Felony
 - Tort
 - Infraction
7. Which complaint would **be rejected** under the jurisdiction of the Physical Therapy Board of California (PTBC)?
- A patient complains of sexual advances made toward them by a physical therapist during a treatment session.
 - A colleague reports a physical therapist assistant showing up for work intoxicated.
 - A patient wishes to dispute their bill for physical therapy services.
 - A physical therapist reports observing their supervisor falsifying patient records in order to increase reported departmental productivity levels.
8. Which tort involves restraining a mentally ill patient who is not a danger to self or others against their will?
- Invasion of privacy
 - Fraud
 - Defamation of character
 - False imprisonment
9. Which term describes the action of a physical therapist who omits a standard of care for a physical therapy professional and makes a mistake that results in an injury to the client?
- Intentional tort
 - Negligence
 - Criminal offense
 - Fraud

