

**Ethics Matters!**  
**Something Doesn't Seem Right – So What Should I Do Now?**

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“I think my colleague is ignoring patient’s wishes when they aren’t feeling well and refuse PT – she forces them to participate to reach her productivity requirement”. “My partner is letting our PTA work without on-sight supervision and he doesn’t have a certificate of authorization”. “One of the PTs in my office is documenting progress when her patient’s aren’t showing any functional gains – I think she is trying to maximize reimbursement”. “The office manager is changing my billing and submitting upcharges to my patient’s insurance provider”. “We are in a designated participation area for Medicare’s Comprehensive Care for Joint Replacement Model. The physicians are not referring patients to physical therapy to save money and earn bonuses”. “The narrow networks are killing my practice – insurance companies keep refusing my applications to be designated as an ‘in-network’ provider and patients who have been coming to me for years are forced to go elsewhere”.

The above statements are examples of inquiries that the PPTA Ethics Committee (CEC) has addressed over the past few years. Each of these statements represents an ethical concern, and some denote conduct that violates a legal statute as well. As licensed PTs and certified PTAs, every practitioner has the responsibility to practice within the ethical guidelines established by the American Physical Therapy Association, regardless of Association membership, and to adhere to the legal guidelines established by our licensure laws and other laws that regulate healthcare, such as the Medicare statute, Fraud and Abuse laws, and even the tenants of the Affordable Care Act. Unfortunately, conduct that is contrary to these regulations is often noticed by colleagues, but rarely does someone have the moral courage to do something about these wrongdoings. It is a fact that whistleblowing is frowned upon in our culture. However, the sad truth is that every therapist who violates these statutes is demeaning the ideals of our profession and devaluing the work that we do to transform society. Clearly, it is the moral obligation of each practicing clinician to assure that these standards are being met and to take appropriate action to stop unethical and illegal practices that harm our patients and our profession. In fact, failure to do so is in itself a violation of the *Code of Ethics for the Physical Therapist (Code)*<sup>1</sup>, *Standards of Ethical Conduct for the PTA (Standards)*<sup>2</sup>, and the Pennsylvania Code<sup>3</sup> and Regulations<sup>4</sup> which govern our license.

So, what should a therapist do when he or she suspects or blatantly encounters conduct that is contrary to Code or Standards, or appears to be a violation of a law that governs PT practice? One of the first steps would be to discuss the concerns with the involved person and try to correct the conduct. This is a good first step, unless the conduct is so egregious that it requires immediate legal action. In those cases, the complainant/therapist who has factual knowledge should contact the appropriate authority with jurisdiction to adjudicate the case. If the situation involves a violation of the Practice Act, the therapist should file a complaint with the State Board. If the situation involves suspected Medicare fraud, the appropriate contact is the CMS Medicare Hotline. For other forms of suspected insurance fraud, notify the PA Insurance Department Hotline. If the action involves other criminal concerns, report the circumstances to the appropriate District Attorney. In any of these situations, it would also be advisable to seek legal advice from the attorney designated by your employer or from an attorney of your choice with experience in healthcare law.

But what if the therapist is unsure of what action to take? One of the services offered to PT and PTA members, nonmembers, and consumers is the opportunity to seek advice from the Chapter Ethics

Committee. Members of this committee can provide insight and guidance on what steps to take. Where possible, they will attempt to provide recommendations to resolve the situation and come into compliance with the ethical and legal standards governing our profession. However, it is important to understand that they are not permitted to provide legal advice or to interpret the Practice Act or other laws. If the situation appears to require immediate legal action, they will direct the individual to seek legal advice or to report the situation to the appropriate authority or hotline. If the situation does not require legal action but involves potential violations of the Code or Standards, and recommendations to resolve the situation are not successful, the CEC will counsel the therapist to file an ethical complaint.

In matters that involve adjudication of ethical complaints, the CEC is bound by the requirements outlined by the American Physical Therapy Association (APTA) in its *Disciplinary Action Procedural Document*<sup>5</sup>. This document establishes procedures for APTA's Ethics and Judicial Committee (EJC), and, where indicated, the CEC, to process claims that a member of the Association has violated the Code or Standards, and establishes guidelines for sanctions against a member's APTA rights and privileges. The EJC does not have authority to impose any sanction against a therapist's license or certification – this is the responsibility of the State Board. The document recently underwent major revisions and the revised document was adopted by the APTA Board of Directors in April. It went into effect immediately and was rolled out at an "Ethics Tea" hosted by the EJC at the NEXT Conference in June. The revised document contains substantive changes to approved methods for reporting suspected ethical violations against members. It also shifts the primary Chapter focus and responsibility from adjudication of ethical complaints to education about ethical practice. Specifically, the document provides step by step guidance for adjudicating any situation that involves an ethical concern. The following is a brief overview of this process:

- ◆ Situations that involve legal action must be fully adjudicated by a licensing authority or other government agency before the EJC will initiate ethical procedures.
- ◆ Once legal situations have been fully adjudicated, the EJC will determine whether it is appropriate to initiate ethical proceedings against an Association member.
- ◆ Any person may bring an ethics complaint against an APTA member by mailing a signed, notarized and written complaint to the EJC alleging that a member engaged in conduct that violated the Code or Standards. The EJC will not consider complaints submitted by fax or email.
- ◆ Disciplinary Proceedings may be processed solely at the Association level or the EJC may direct a Chapter President to appoint an Ethics Panel to conduct the initial investigation. In Pennsylvania, the CEC will serve as the Ethics Panel.
- ◆ Based on the results of the investigation, the complaint may be dismissed due to lack of evidence or failure to establish an ethical violation, or the following sanctions may be imposed against a member's APTA rights and privileges:
  - **Reprimand** with a statement that the respondent's behavior was contrary to the Code or Standards.
  - **Suspension** of a member's APTA membership rights and privileges for a period of at least six months.
  - **Expulsion** of the member from the Association.
- ◆ All EJC decisions are subject to appeal to the APTA Board of Directors

In conclusion, the PPTA Ethics Committee is committed to supporting ethical physical therapy practice and resolving ethical concerns. We welcome inquiries and remarks about ethical matters. We also encourage members, non-members, and the public to take advantage of the educational services that the Committee provides. Please visit our page on the PPTA website to view links to Core ethics

documents, resources, and newsletter articles. Additionally, we welcome comments on our publications and presentations, and encourage individuals to make recommendations for topics they would like to see addressed in the future.

PPTA Ethics Committee:  
Mary Ann Wharton, PT, MS, Chair  
Geraldine Grzybek, PT, GCS  
Michael Fine, PT, DPT, GCS  
Pamela Pologruto, PT  
Ann Lowrey, PTA

#### **Steps to Take**

- ◆ Consult with Chapter Ethics Committee
- ◆ Report any egregious concern that requires immediate legal action
- ◆ Attempt to resolve ethical concerns
- ◆ Mail a signed, notarized letter outlining an unresolved ethical concern to APTA's Ethics & Judicial Committee

#### **References:**

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