

ETHICS – TEXAS PHYSICAL THERAPY

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GOALS AND OBJECTIVES

COURSE DESCRIPTION

“Ethics – Texas Physical Therapy” is a home study continuing education program for healthcare professionals. The course focuses on defining ethical professional behavior of clinicians in a rehabilitation setting. Information presented includes sections on the theoretical basis for ethical decision-making, the APTA’s Code of Ethics and Guide for Professional Conduct, legal standards of behavior, and hypothetical case scenarios.

COURSE RATIONALE

This course was developed to promote and facilitate ethical behavior among therapists and other healthcare professionals in the rehabilitation setting.

COURSE GOALS

1. The student will understand the theoretical basis for ethical decision-making.
2. The student will review and be familiar with the APTA’s Code of Ethics and Guide for Professional Conduct.
3. The student will learn about legal standards of behavior as defined by their state practice act and Board rules.
4. The student will analyze and interpret hypothetical situations to determine ethical behavior.
5. The student will understand the basic rights of the patient.
6. The student will learn about the legal and ethical considerations of billing and coding.
7. The student will understand the meaning and implications of “conflict of interest”.
8. The student will learn about appropriate relationships in the rehabilitation setting.

COURSE OBJECTIVES

1. Increase understanding of the process required for ethical decision-making.
2. Familiarize therapists and assistants with their profession’s Code of Ethics.
3. Review and interpret the laws and rules that govern rehabilitation professionals.
4. Develop improved problem solving skills relating to ethical dilemmas.
5. Review and explain basic patient rights.
6. Examine the ethical considerations involved with billing for rehab services.
7. Discuss the meaning and implications of conflict of interest.
8. Review and examine appropriate relationships in rehabilitation.

COURSE INSTRUCTOR

Michael Niss PT

METHODS OF INSTRUCTION

Home study course available via internet or written correspondence.

CONTINUING EDUCATION CREDITS

Two (2) hours of continuing education credit

CRITERIA FOR ISSUANCE OF CONTINUING EDUCATION CREDITS

A documented score of 70% or greater on the written post-test.

DETERMINATION OF CONTACT HOURS

“Ethics – Texas Physical Therapy” will require at least 2 hours to complete. This estimate is based on the accepted standard for home study courses of approximately 10-12 pages of written text (12 pt font) per hour. The complete text of this course is 27 pages (excluding Bibliography and Post Test)

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ETHICS – TEXAS PHYSICAL THERAPY

OUTLINE

	page	
Goals and Objectives	1	start hour 1
Outline	2	
Ethics	3	
Why Ethics are Important	3	
Ethics vs Morals	3	
Ethical Questions	3-4	
Ethics Theories	4-5	
How to Make Right Decisions	5-7	
Texas Physical Therapy Rules	7-12	
Provision of Services. §322.1	7-10	
Role Delineation. §322.2.	10-11	
Supervision §322.3	11-12	end hour 1
Texas Physical Therapy Practice Act	12	start hour 2
APTA Code of Ethics	12-13	
APTA Guide for Professional Conduct	14-21	
Ethics Case Studies	21-28	
#1 – Confidentiality	21-22	
#2 – Qualification of Practice	22-23	
#3 – Informed Consent	23-24	
#4 – Medical Necessity	24-25	
#5 – Conflict of Interest	25-26	
#6 – Relationships with Referral Sources	26-27	
Bibliography	27	
Post-Test	28-29	end hour 2

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ETHICS – TEXAS PHYSICAL THERAPY

ETHICS

The word "ethics" is derived from the Greek word *ethos* (character), and from the Latin word *mores* (customs). Together, they combine to define how individuals choose to interact with one another. In philosophy, ethics defines what is good for the individual and for society and establishes the nature of duties that people owe themselves and one another. Ethics is also a field of human inquiry ("science" according to some definitions) that examines the bases of human goals and the foundations of "right" and "wrong" human actions that further or hinder these goals.

WHY ETHICS ARE IMPORTANT

Ethics is important on several levels.

- People feel better about themselves and their profession when they work in an ethical manner.
- Professions recognize that their credibility rests not only on technical competence, but also on public trust.
- At the organizational level, ethics is good business. Several studies have shown that over the long run ethical businesses perform better than unethical businesses.

ETHICS VS. MORALS

Although the terms "ethics" and "morals" are often used interchangeably, they are not identical. Morals usually refer to practices; ethics refers to the rationale that may or may not support such practices. Morals refer to actions, ethics to the reasoning behind such actions. Ethics is an examined and carefully considered structure that includes both practice and theory. Morals include ethically examined practices, but may also include practices that have not been ethically analyzed, such as social customs, emotional responses to breaches of socially accepted practices and social prejudices. Ethics is usually at a higher intellectual level, more universal, and more dispassionate than morals. Some philosophers, however, use the term "morals" to describe a publicly agreed-upon set of rules for responding to ethical problems.

ETHICAL QUESTIONS

Ethical questions involve 1) responsibilities to the welfare of others or to the human community; or 2) conflicts among loyalties to different persons or groups,

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among responsibilities associated with one's role (e.g. as consumer or provider), or among principles. Ethical questions include (or imply) the words "ought" or "should".

ETHICS THEORIES

Throughout history, mankind has attempted to determine the philosophical basis from which to define right and wrong. Here are some of the more commonly accepted theories that have been proposed.

UTILITARIANISM

This philosophical theory develops from the work of Jeremy Bentham and John Stewart Mill. Simply put, utilitarianism is the theory that right and wrong is determined by the consequences. The basic tool of measurement is pleasure (Bentham) or happiness (Mill).

A morally correct rule was the one that provided the greatest good to the greatest number of people.

SOCIAL CONTRACT THEORY

Social contract theory is attributed to Thomas Hobbes, John Locke, and from the twentieth century, John Rawls. Social contract theories believe that the moral code is created by the people who form societies. These people come together to create society for the purpose of protection and gaining other benefits of social cooperation. These persons agree to regulate and restrict their conduct to achieve this end.

DEONTOLOGICAL OR DUTY THEORY

Under this theory you determine if an act or rule is morally right or wrong if it meets a moral standard. The morally important thing is not consequences but the way choosers think while they make choices. One famous philosopher who developed such a theory was Immanuel Kant (1724-1804).

ETHICAL INTUITIONISM

Under this view an act or rule is determined to be right or wrong by appeal to the common intuition of a person. This intuition is sometimes referred to as your conscience. Anyone with a normal conscience will know that it is wrong to kill an innocent person.

ETHICAL EGOISM

This view is based on the theory that each person should do whatever promotes their own best interests; this becomes the basis for moral choices.

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VIRTUE ETHICS

This ethics theory proposes that ethical behavior is a result of developed or inherent character traits or virtues. A person will do what is morally right because they are a virtuous person. Aristotle (384-322 B.C.) was a famous exponent of this view. Aristotle felt that virtue ethics was the way to attain true happiness. These are some of the commonly accepted virtues.

Autonomy: the duty to maximize the individual's right to make his or her own decisions.

Beneficence: the duty to do good.

Confidentiality: the duty to respect privacy of information.

Finality: the duty to take action that may override the demands of law, religion, and social customs.

Justice: the duty to treat all fairly, distributing the risks and benefits equally.

Nonmaleficence: the duty to cause no harm.

Understanding/Tolerance: the duty to understand and to accept other viewpoints if reason dictates.

Respect for persons: the duty to honor others, their rights, and their responsibilities.

Universality: the duty to take actions that hold for everyone, regardless of time, place, or people involved.

Veracity: the duty to tell the truth.

HOW TO MAKE RIGHT DECISIONS

The foundation for making proper ethical decisions is rooted in an individual's ability to answer several fundamental questions concerning their actions.

1. Is it legal?

Weighing the legality of one's actions is a prudent way to begin the decision-making process. The laws of a geographic region are a written

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ETHICS – TEXAS PHYSICAL THERAPY

code of that region's accepted rules of conduct. This code of conduct usually defines clearly which actions are considered acceptable and which actions are unacceptable. However, a legitimate argument can be made that sometimes what is legal is not always moral, and that sometimes what is moral is not always legal. This idea is easily demonstrated by the following situation.

It is illegal for a pedestrian to cross a busy street anywhere other than at the designated crosswalk (jaywalking). A man is walking down a street and sees someone fall and injure themselves on the other side of the street. He immediately crosses the street outside of the crosswalk to attend to the injured person. Are his actions legal? Are they moral? What if by stepping into the street he causes a car to swerve and to strike another vehicle?

Admittedly, with the exception of policemen and attorneys, most people do not know all of the specific laws that govern their lives. However, it is assumed that most people are familiar with the fundamental virtues from which these laws are based, and that they will live their lives in accordance with these virtues.

2. Is it ethical?

Professional ethical behavior as it is defined in this context relates to actions that are consistent with the normative standards established or practiced by others in the same profession. For physical therapists and physical therapist assistants, these ethical standards are documented in the APTA's Code of Ethics. All PT's and PTA's, even those who are not members of the APTA, are bound to these guidelines. This is because The APTA Code of Ethics is the accepted and de facto standard of practice throughout the profession.

3. Is it fair?

I think most people would agree that the concept of fairness is often highly subjective. However, for these purposes, we will define fairness as meaning deserved, equitable and unbiased. Fairness requires the decision-maker to have a complete understanding of benefits and liabilities to all parties affected by the decision. Decisions that result in capricious harm or arbitrary benefit cannot be considered fair. The goal of every decision should be an outcome of relative equity that reflects insightful thought and soundness of intent.

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4. Would you want others to know of your decision?

This question presents as a true reflection of the other three. Legal, ethical, and fair are defined quite differently by most people when judged in the comfort of anonymity versus when it is examined before the forum of public opinion. Most often it is the incorrect assumption that “no one will ever find out about this” that leads people to commit acts of impropriety. How would your decisions change, if prior to taking any actions, you assumed just the opposite; “other people will definitely know what I have done”. One sure sign of a poor decision is debating the possible exposure of an action instead of examining the appropriateness of it.

TEXAS PHYSICAL THERAPY RULES

As mandated by the Texas Physical Therapy Practice Act, the PT Board adopts rules to govern the practice of physical therapy in the State. Rules are adopted, changed and repealed in response to developments in physical therapy practice, administrative changes, or legislative mandates. The rules are established as minimum standards, to ensure that the public is adequately protected.

A complete copy of the State of Texas Physical Therapy Rules can be found at: http://www.ecptote.state.tx.us/_private/PT_currentrules.pdf

Some of the sections that define professional and/or clinical conduct are summarized below.

Provision of Services. §322.1

(a) Initiation of physical therapy services

(1) Referral requirement. A physical therapist is subject to discipline from the board for providing physical therapy treatment without a referral from a qualified healthcare practitioner licensed by the appropriate licensing board, who within the scope of the professional licensure is authorized to prescribe treatment of individuals. The list of qualifying referral sources includes physicians, dentists, chiropractors, podiatrists, physician assistants, and advanced nurse practitioners.

(2) Exceptions to referral requirement

(A) A PT may evaluate without referral.

(B) A PT may provide instructions to any person who is asymptomatic relating to the instructions being given without a referral.

(C) Emergency Circumstances. A PT may provide emergency medical care to a person after the sudden onset of a medical

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ETHICS – TEXAS PHYSICAL THERAPY

condition manifesting itself by acute symptoms of sufficient severity without referral if the absence of immediate medical attention could reasonably be expected to result in a serious threat to the patient's health, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

(D) Prior referrals. A physical therapist may treat a patient for an injury or condition that is the subject of a prior referral if all of the following conditions are met.

(i) The physical therapist must notify the original referring healthcare personnel of the commencement of therapy by telephone within five days, or by letter postmarked within five business days;

(ii) The physical therapy provided must not be for more than 20 treatment sessions or 30 consecutive calendar days, whichever occurs first. At the conclusion of this time or treatment, the physical therapist must confer with the referring healthcare personnel before continuing treatment.

(iii) The treatment can only be provided to a client/patient who received the referral not more than one year previously.

(iv) The physical therapist providing treatment must have been licensed for one year. The physical therapist responsible for the treatment of the patient may delegate appropriate duties to another physical therapist having less than one year of experience or to a physical therapist assistant. A physical therapist licensed for more than one year must retain responsibility for and supervision of the treatment.

(3) Methods of referral. A referral may be transmitted by a qualifying referral source in the following ways:

(A) a document (including an electronically transmitted document or facsimile); or

(B) verbally, in person or by telephone. If a referral is transmitted verbally, whether in person or by telephone, it must be received, recorded and signed by the PT, PTA or other authorized personnel, and include all of the information that would appear on a written referral.

(b) Evaluation and screening.

(1) Evaluation. Physical therapy treatment may not be provided prior to the completion of an evaluation of the patient's condition by a PT.

(2) Reevaluation. A patient receiving treatment must be reevaluated by a PT:

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- (A) at least once every 30 days, or at a higher frequency as established by the PT; or
- (B) In response to a change in the patient's medical status that affects physical therapy treatment, when a change in the physical therapy plan of care is needed, or prior to any planned discharge.
- (C) A reevaluation must include:
 - (i) An onsite reexamination of the patient, and
 - (ii) A review of the plan of care with appropriate revision or termination.

(3) PTAs may screen patients designated by a PT as possible candidates for physical therapy services. Screening entails the collection of uniform information from all patients screened using a predetermined, standardized format. The information collected is delivered to the supervising PT. Only a PT may determine whether further intervention for patients screened is necessary.

(c) Physical therapy plan of care development and implementation.

- (1) A written plan of care must be developed for each patient by a PT.
- (2) The plan of care must be updated following the periodic reevaluation of the patient's condition.
- (3) The plan of care or treatment goals may only be changed or modified by a PT.
- (4) Physical therapy treatment may not be provided by a PTA or an aide until a written plan of care, based on an evaluation by a PT, has been completed.
- (5) A PTA may modify treatment techniques as indicated in the plan of care.
- (6) A PT or PTA must interact with the patient regarding his/her condition, progress and/or achievement of goals during each treatment session.

(d) Documentation of treatment.

- (1) Each progress note in a patient's permanent record completed by a PTA must include the name of the supervising PT.
- (2) A PTA may not sign progress notes which design or modify the plan of care.
- (3) Physical therapy aides may not write or sign physical therapy documents in the permanent record. However, a physical therapy aide may record quantitative data for tasks delegated by the supervising PT or PTA. Any document reflecting aide activities must identify the aide and the supervising PT or PTA.

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(e) Discharge. The supervising PT is responsible for the content and validity of the discharge summary and must sign it. A PTA may provide clerical assistance with a discharge summary.

Role Delineation. §322.2.

(a) The role of the PTA.

(1) A PTA may provide physical therapy services only under the supervision of a PT (See §322.3 of this title, (relating to Supervision)).

(2) A PTA may be assigned responsibilities by a supervising PT to:

(A) screen patients designated by a PT as possible candidates for physical therapy services (See §322.1(b) of this chapter, (relating to Evaluation and screening));

(B) provide physical therapy services as specified in the physical therapy plan of care (See §322.1(c) of this chapter, (relating to Physical therapy plan of care development and implementation)) which may include:

(i) preparing patients, treatment areas, and equipment;

(ii) implementing treatment programs that include therapeutic exercises; gait training and techniques; ADL training techniques; administration of therapeutic heat and cold; administration of ultrasound; administration of therapeutic electric current; administration of ultraviolet; application of traction; performance of intermittent venous compression; application of external bandages, dressings, and support; performance of goniometric measurement;

(iii) modifying treatment techniques as indicated in the plan of care;

(C) respond to acute changes in physiological state;

(D) teach other health care providers, patients, and families to perform selected treatment procedures and functional activities;

(E) identify architectural barriers;

(F) interact with patients and families in a manner which provides the desired psycho-social support by:

(i) recognizing his own reaction to illness and disability;

(ii) recognizing patients' and families' reactions to illness and disability;

(iii) respecting individual cultural, religious, and socioeconomic differences in people;

(iv) utilizing appropriate communicative processes;

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(G) demonstrate appropriate and effective written, oral, and nonverbal communication with patients and their families, colleagues, and the public;

(H) recognize his own strengths and limitations and interpret for others his scope and function;

(I) demonstrate safe, ethical, and legal practice;

(J) understand basic concepts related to the health care system, including multidisciplinary team approach, quality care, governmental agencies, private sector, role of other health care providers, health care facilities, issues, and problems;

(K) understand basic principles of levels of authority and responsibility, planning, time management, supervisory process, performance evaluations, policies and procedures, and fiscal consideration (provider and consumer).

(3) The PTA may not:

(A) specify and/or perform definitive (decisive, conclusive, final) evaluative and assessment procedures;

(B) alter a plan of care or goals;

(C) recommend wheelchairs, orthoses, prostheses, other assistive devices, or alterations to architectural barriers to persons;

(D) sign progress notes which design or modify the plan of care.

(b) The role of the physical therapy aide.

(1) All rules governing the services provided by a PTA are further modified for the physical therapy aide.

(2) A physical therapy aide may be assigned responsibilities by the supervising PT or PTA to provide services as specified in the physical therapy plan of care (See §322.1(c) of this chapter, (relating to Physical Therapy Plan of Care development and implementation)) within the scope of on-the-job training with onsite supervision by a PT or PTA within reasonable proximity.

(3) A physical therapy aide may not:

(A) perform any evaluative or assessment activities;

(B) initiate physical therapy treatment, to include exercise instruction; or

(C) write or sign physical therapy documents in the permanent record, except as provided for in §322.1(d), Documentation of treatment.

Supervision §322.3

(a) It is the responsibility of each PT and/or PTA to determine the number of PTAs and/or aides he or she can supervise safely.

(b) Supervision of PTAs.

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- (1) A supervising PT is responsible for and will participate in the patient's care.
 - (2) A supervising PT must be on call and readily available when physical therapy services are being provided.
 - (3) A PT may assign responsibilities to a PTA to provide physical therapy services, based on the PTA's training, that are within the scope of activities listed in §322.1, Provision of Services.
 - (4) The supervising PT must hold documented conferences with the PTA regarding the patient. The PT is responsible for determining the frequency of the conferences consistent with accepted standards of practice.
- (c) Supervision of physical therapy aides.
- (1) A supervising PT or PTA is responsible for the supervision of, and the physical therapy services provided by, the PT aide.
 - (2) A PT or PTA must provide onsite supervision of a physical therapy aide, and remain within reasonable proximity during the aide's interaction with the patient.

TEXAS PHYSICAL THERAPY PRACTICE ACT

The 62nd Texas Legislature enacted the Physical Therapy Practice Act in 1971. The Act has been revised many times in the years since; most recently by the Texas Legislature in August 2006. All rules adopted by the Board are based on the Act.

A complete copy of the State of Texas Physical Therapy Practice Act (updated 8/2006) can be found at:

http://www.ecptote.state.tx.us/_private/PT_Act_2006.pdf

APTA CODE OF ETHICS

PREAMBLE

This Code of Ethics of the American Physical Therapy Association sets forth principles for the ethical practice of physical therapy. All physical therapists are responsible for maintaining and promoting ethical practice. To this end, the physical therapist shall act in the best interest of the patient/client. This Code of Ethics shall be binding on all physical therapists.

PRINCIPLE 1

A physical therapist shall respect the rights and dignity of all individuals and shall provide compassionate care.

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PRINCIPLE 2

A physical therapist shall act in a trustworthy manner towards patients/clients, and in all other aspects of physical therapy practice.

PRINCIPLE 3

A physical therapist shall comply with laws and regulations governing physical therapy and shall strive to effect changes that benefit patients/clients.

PRINCIPLE 4

A physical therapist shall exercise sound professional judgment.

PRINCIPLE 5

A physical therapist shall achieve and maintain professional competence.

PRINCIPLE 6

A physical therapist shall maintain and promote high standards for physical therapy practice, education and research.

PRINCIPLE 7

A physical therapist shall seek only such remuneration as is deserved and reasonable for physical therapy services.

PRINCIPLE 8

A physical therapist shall provide and make available accurate and relevant information to patients/clients about their care and to the public about physical therapy services.

PRINCIPLE 9

A physical therapist shall protect the public and the profession from unethical, incompetent, and illegal acts.

PRINCIPLE 10

A physical therapist shall endeavor to address the health needs of society.

PRINCIPLE 11

A physical therapist shall respect the rights, knowledge, and skills of colleagues and other health care professionals.

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ETHICS – TEXAS PHYSICAL THERAPY

APTA GUIDE FOR PROFESSIONAL CONDUCT

Purpose

This *Guide for Professional Conduct* (Guide) is intended to serve physical therapists in interpreting the *Code of Ethics* (Code) of the American Physical Therapy Association (Association), in matters of professional conduct. The Guide provides guidelines by which physical therapists may determine the propriety of their conduct. It is also intended to guide the professional development of physical therapist students. The Code and the Guide apply to all physical therapists. These guidelines are subject to changes as the dynamics of the profession change and as new patterns of health care delivery are developed and accepted by the professional community and the public. This Guide is subject to monitoring and timely revision by the Ethics and Judicial Committee of the Association.

Interpreting Ethical Principles

The interpretations expressed in this Guide reflect the opinions, decisions, and advice of the Ethics and Judicial Committee. These interpretations are intended to assist a physical therapist in applying general ethical principles to specific situations. They should not be considered inclusive of all situations that could evolve.

PRINCIPLE 1

A physical therapist shall respect the rights and dignity of all individuals and shall provide compassionate care.

1.1 Attitudes of a Physical Therapist

- A. A physical therapist shall recognize, respect, and respond to individual and cultural differences with compassion and sensitivity.
- B. A physical therapist shall be guided at all times by concern for the physical, psychological, and socioeconomic welfare of patients/clients.
- C. A physical therapist shall not harass, abuse, or discriminate against others.

PRINCIPLE 2

A physical therapist shall act in a trustworthy manner towards patients/clients, and in all other aspects of physical therapy practice.

2.1 Patient/Physical Therapist Relationship

- A. A physical therapist shall place the patient/client's interest(s) above those of the physical therapist. Working in the patient/client's best interest requires knowledge of the patient/client's needs from the patient/client's perspective. Patients/clients often come to the physical therapist in a vulnerable state and normally will rely on the physical therapist's advice, which they perceive to be

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based on superior knowledge, skill, and experience. The trustworthy physical therapist acts to ameliorate the patient's/client's vulnerability, not to exploit it.

B. A physical therapist shall not exploit any aspect of the physical therapist/patient relationship.

C. A physical therapist shall not engage in any sexual relationship or activity, whether consensual or nonconsensual, with any patient while a physical therapist/patient relationship exists. Termination of the physical therapist/patient relationship does not eliminate the possibility that a sexual or intimate relationship may exploit the vulnerability of the former patient/client.

D. A physical therapist shall encourage an open and collaborative dialogue with the patient/client.

E. In the event the physical therapist or patient terminates the physical therapist/patient relationship while the patient continues to need physical therapy services, the physical therapist should take steps to transfer the care of the patient to another provider.

2.2 Truthfulness

A physical therapist has an obligation to provide accurate and truthful information. A physical therapist shall not make statements that he/she knows or should know are false, deceptive, fraudulent, or misleading. See Section 8.2.C and D.

2.3 Confidential Information

A. Information relating to the physical therapist/patient relationship is confidential and may not be communicated to a third party not involved in that patient's care without the prior consent of the patient, subject to applicable law.

B. Information derived from peer review shall be held confidential by the reviewer unless the physical therapist who was reviewed consents to the release of the information.

C. A physical therapist may disclose information to appropriate authorities when it is necessary to protect the welfare of an individual or the community or when required by law. Such disclosure shall be in accordance with applicable law.

2.4 Patient Autonomy and Consent

A. A physical therapist shall respect the patient's/client's right to make decisions regarding the recommended plan of care, including consent, modification, or refusal.

B. A physical therapist shall communicate to the patient/client the findings of his/her examination, evaluation, diagnosis, and prognosis.

C. A physical therapist shall collaborate with the patient/client to establish the goals of treatment and the plan of care.

D. A physical therapist shall use sound professional judgment in informing the patient/client of any substantial risks of the recommended examination and intervention.

E. A physical therapist shall not restrict patients' freedom to select their provider of physical therapy.

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ETHICS – TEXAS PHYSICAL THERAPY

PRINCIPLE 3

A physical therapist shall comply with laws and regulations governing physical therapy and shall strive to effect changes that benefit patients/clients.

3.1 Professional Practice

A physical therapist shall comply with laws governing the qualifications, functions, and duties of a physical therapist.

3.2 Just Laws and Regulations

A physical therapist shall advocate the adoption of laws, regulations, and policies by providers, employers, third party payers, legislatures, and regulatory agencies to provide and improve access to necessary health care services for all individuals.

3.3 Unjust Laws and Regulations

A physical therapist shall endeavor to change unjust laws, regulations, and policies that govern the practice of physical therapy. See Section 10.2.

PRINCIPLE 4

A physical therapist shall exercise sound professional judgment.

4.1 Professional Responsibility

A. A physical therapist shall make professional judgments that are in the patient/client's best interests.

B. Regardless of practice setting, a physical therapist has primary responsibility for the physical therapy care of a patient and shall make independent judgments regarding that care consistent with accepted professional standards. See Sections 2.4 and 6.1.

C. A physical therapist shall not provide physical therapy services to a patient/client while his/her ability to do so safely is impaired.

D. A physical therapist shall exercise sound professional judgment based upon his/her knowledge, skill, education, training, and experience.

E. Upon accepting a patient/client for physical therapy services, a physical therapist shall be responsible for: the examination, evaluation, and diagnosis of that individual; the prognosis and intervention; re-examination and modification of the plan of care; and the maintenance of adequate records, including progress reports. A physical therapist shall establish the plan of care and shall provide and/or supervise and direct the appropriate interventions. See Section 2.4.

F. If the diagnostic process reveals findings that are outside the scope of the physical therapist's knowledge, experience, or expertise, the physical therapist shall so inform the patient/client and refer to an appropriate practitioner.

G. When the patient has been referred from another practitioner, the physical therapist shall communicate pertinent findings and/or information to the referring practitioner.

H. A physical therapist shall determine when a patient/client will no longer benefit from physical therapy services. See Section 7.1.D.

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ETHICS – TEXAS PHYSICAL THERAPY

4.2 Direction and Supervision

- A. The supervising physical therapist has primary responsibility for the physical therapy care rendered to a patient/client.
- B. A physical therapist shall not delegate to a less qualified person any activity that requires the professional skill, knowledge, and judgment of the physical therapist.

4.3 Practice Arrangements

- A. Participation in a business, partnership, corporation, or other entity does not exempt physical therapists, whether employers, partners, or stockholders, either individually or collectively, from the obligation to promote, maintain and comply with the ethical principles of the Association.
- B. A physical therapist shall advise his/her employer(s) of any employer practice that causes a physical therapist to be in conflict with the ethical principles of the Association. A physical therapist shall seek to eliminate aspects of his/her employment that are in conflict with the ethical principles of the Association.

4.4 Gifts and Other Consideration(s)

- A. A physical therapist shall not invite, accept, or offer gifts, monetary incentives, or other considerations that affect or give an appearance of affecting his/her professional judgment.
- B. A physical therapist shall not offer or accept kickbacks in exchange for patient referrals. See Sections 7.1.F and G and 9.1.D.

PRINCIPLE 5

A physical therapist shall achieve and maintain professional competence.

5.1 Scope of Competence

A physical therapist shall practice within the scope of his/her competence and commensurate with his/her level of education, training and experience.

5.2 Self-assessment

A physical therapist has a lifelong professional responsibility for maintaining competence through on-going self-assessment, education, and enhancement of knowledge and skills.

5.3 Professional Development

A physical therapist shall participate in educational activities that enhance his/her basic knowledge and skills. See Section 6.1.

PRINCIPLE 6

A physical therapist shall maintain and promote high standards for physical therapy practice, education and research.

6.1 Professional Standards

A physical therapist's practice shall be consistent with accepted professional standards. A physical therapist shall continuously engage in assessment activities to determine compliance with these standards.

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6.2 Practice

- A. A physical therapist shall achieve and maintain professional competence. See Section 5.
- B. A physical therapist shall demonstrate his/her commitment to quality improvement by engaging in peer and utilization review and other self-assessment activities.

6.3 Professional Education

- A. A physical therapist shall support high-quality education in academic and clinical settings.
- B. A physical therapist participating in the educational process is responsible to the students, the academic institutions, and the clinical settings for promoting ethical conduct. A physical therapist shall model ethical behavior and provide the student with information about the Code of Ethics, opportunities to discuss ethical conflicts, and procedures for reporting unresolved ethical conflicts. See Section 9.

6.4 Continuing Education

- A. A physical therapist providing continuing education must be competent in the content area.
- B. When a physical therapist provides continuing education, he/she shall ensure that course content, objectives, faculty credentials, and responsibilities of the instructional staff are accurately stated in the promotional and instructional course materials.
- C. A physical therapist shall evaluate the efficacy and effectiveness of information and techniques presented in continuing education programs before integrating them into his or her practice.

6.5 Research

- A. A physical therapist participating in research shall abide by ethical standards governing protection of human subjects and dissemination of results.
- B. A physical therapist shall support research activities that contribute knowledge for improved patient care.
- C. A physical therapist shall report to appropriate authorities any acts in the conduct or presentation of research that appear unethical or illegal. See Section 9.

PRINCIPLE 7

A physical therapist shall seek only such remuneration as is deserved and reasonable for physical therapy services.

7.1 Business and Employment Practices

- A. A physical therapist's business/employment practices shall be consistent with the ethical principles of the Association.
- B. A physical therapist shall never place her/his own financial interest above the welfare of individuals under his/her care.
- C. A physical therapist shall recognize that third-party payer contracts may limit, in one form or another, the provision of physical therapy services. Third-party

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limitations do not absolve the physical therapist from making sound professional judgments that are in the patient's best interest. A physical therapist shall avoid underutilization of physical therapy services.

D. When a physical therapist's judgment is that a patient will receive negligible benefit from physical therapy services, the physical therapist shall not provide or continue to provide such services if the primary reason for doing so is to further the financial self-interest of the physical therapist or his/her employer. A physical therapist shall avoid overutilization of physical therapy services. See Section 4.1.H.

E. Fees for physical therapy services should be reasonable for the service performed, considering the setting in which it is provided, practice costs in the geographic area, judgment of other organizations, and other relevant factors.

F. A physical therapist shall not directly or indirectly request, receive, or participate in the dividing, transferring, assigning, or rebating of an unearned fee. See Sections 4.4.A and B.

G. A physical therapist shall not profit by means of a credit or other valuable consideration, such as an unearned commission, discount, or gratuity, in connection with the furnishing of physical therapy services. See Sections 4.4.A and B.

H. Unless laws impose restrictions to the contrary, physical therapists who provide physical therapy services within a business entity may pool fees and monies received. Physical therapists may divide or apportion these fees and monies in accordance with the business agreement.

I. A physical therapist may enter into agreements with organizations to provide physical therapy services if such agreements do not violate the ethical principles of the Association or applicable laws.

7.2 Endorsement of Products or Services

A. A physical therapist shall not exert influence on individuals under his/her care or their families to use products or services based on the direct or indirect financial interest of the physical therapist in such products or services. Realizing that these individuals will normally rely on the physical therapist's advice, their best interest must always be maintained, as must their right of free choice relating to the use of any product or service. Although it cannot be considered unethical for physical therapists to own or have a financial interest in the production, sale, or distribution of products/services, they must act in accordance with law and make full disclosure of their interest whenever individuals under their care use such products/services.

B. A physical therapist may receive remuneration for endorsement or advertisement of products or services to the public, physical therapists, or other health professionals provided he/she discloses any financial interest in the production, sale, or distribution of said products or services.

C. When endorsing or advertising products or services, a physical therapist shall use sound professional judgment and shall not give the appearance of Association endorsement unless the Association has formally endorsed the products or services.

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ETHICS – TEXAS PHYSICAL THERAPY

7.3 Disclosure

A physical therapist shall disclose to the patient if the referring practitioner derives compensation from the provision of physical therapy.

PRINCIPLE 8

A physical therapist shall provide and make available accurate and relevant information to patients/clients about their care and to the public about physical therapy services.

8.1 Accurate and Relevant Information to the Patient

- A. A physical therapist shall provide the patient/client accurate and relevant information about his/her condition and plan of care. See Section 2.4.
- B. Upon the request of the patient, the physical therapist shall provide, or make available, the medical record to the patient or a patient-designated third party.
- C. A physical therapist shall inform patients of any known financial limitations that may affect their care.
- D. A physical therapist shall inform the patient when, in his/her judgment, the patient will receive negligible benefit from further care. See Section 7.1.C.

8.2 Accurate and Relevant Information to the Public

- A. A physical therapist shall inform the public about the societal benefits of the profession and who is qualified to provide physical therapy services.
- B. Information given to the public shall emphasize that individual problems cannot be treated without individualized examination and plans/programs of care.
- C. A physical therapist may advertise his/her services to the public. See Section 2.2.
- D. A physical therapist shall not use, or participate in the use of, any form of communication containing a false, plagiarized, fraudulent, deceptive, unfair, or sensational statement or claim. See Section 2.2.
- E. A physical therapist who places a paid advertisement shall identify it as such unless it is apparent from the context that it is a paid advertisement.

PRINCIPLE 9

A physical therapist shall protect the public and the profession from unethical, incompetent, and illegal acts.

9.1 Consumer Protection

- A. A physical therapist shall provide care that is within the scope of practice as defined by the state practice act.
- B. A physical therapist shall not engage in any conduct that is unethical, incompetent or illegal.
- C. A physical therapist shall report any conduct that appears to be unethical, incompetent, or illegal.
- D. A physical therapist may not participate in any arrangements in which patients are exploited due to the referring sources' enhancing their personal incomes as a result of referring for, prescribing, or recommending physical therapy. See Sections 2.1.B, 4, and 7.

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PRINCIPLE 10

A physical therapist shall endeavor to address the health needs of society.

10.1 Pro Bono Service

A physical therapist shall render pro bono publico (reduced or no fee) services to patients lacking the ability to pay for services, as each physical therapist's practice permits.

10.2 Individual and Community Health

A. A physical therapist shall be aware of the patient's health-related needs and act in a manner that facilitates meeting those needs.

B. A physical therapist shall endeavor to support activities that benefit the health status of the community. See Section 3.

PRINCIPLE 11

A physical therapist shall respect the rights, knowledge, and skills of colleagues and other healthcare professionals.

11.1 Consultation

A physical therapist shall seek consultation whenever the welfare of the patient will be safeguarded or advanced by consulting those who have special skills, knowledge, and experience.

11.2 Patient/Provider Relationships

A physical therapist shall not undermine the relationship(s) between his/her patient and other healthcare professionals.

11.3 Disparagement

Physical therapists shall not disparage colleagues and other health care professionals. See Section 9 and Section 2.4.A.

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ETHICS CASE STUDIES

Case Study #1 - Confidentiality

John Jones PT, Sue Brown (therapy receptionist), and Mary Smith (Therapy managed care contracting), are in a private PT office discussing the fact that they are treating Biff Simpson, a star NFL quarterback. John says, "I can't believe that I'm actually treating Biff Simpson." Mary asks, "How bad do you think his injury is?" John replies, "I saw his MRI report, it looks like he is going to need surgery."

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Is this a breach in confidentiality?

The information contained in each patient's medical record must be safeguarded against disclosure or exposure to nonproprietary individuals. The right to know any medical information about another is always predicated on a sound demonstration of need. Frequently, many individuals require access to information contained in a patient's medical record. Their right to access this information is limited to only that information which is deemed necessary for them perform their job in a safe, effective, and responsible manner.

The first questions we must ask are "What information is being disclosed and do the three individuals engaged in the conversation have a need to know this information?"

John's first statement discloses the name of person receiving care, and his second statement reveals private patient medical information. Certainly, as the primary therapist, John would need to know the patient's name and therapy related diagnosis in order to provide care. Sue, the receptionist, may also need this information to schedule appointments and perform other essential clerical tasks. Mary, whose job it is to contract with managed care organizations, most likely has no compelling reason to know either the patient's identity or any of his medical information. Therefore, the disclosure to Mary of the patient's identity and medical information is a breach of patient confidentiality. (APTA's Guide for Professional Conduct, Principle 2.3)

Case Study #2 – Qualifications of Practice

You work in very busy outpatient rehab clinic. One of your coworkers is a physical therapy aide who has worked in rehabilitation for more than 20 years. Frequently, she is called upon to perform treatments that should be done by a PT or PTA. The patients always give her compliments, and frequently request her to treat them. She demonstrates exceptional skills and achieves outstanding outcomes.

Is the clinic providing ethical care to its patients?

The practice of physical therapy is closely regulated throughout the United States. Each state, through legislation, establishes minimal licensure and practice standards. This is done to protect the general public against fraud and substandard care by under-qualified practitioners. It is each physical therapist's responsibility to adhere to the standards of care and licensure requirements specific to the state in which they practice. The

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therapist must also ensure that all care provided not directly by them, but under their supervision, also meets these standards.

In this situation, the aide's abilities and outcomes are considered irrelevant. The key sentence in the paragraph is: "perform treatments that should be done by a PT or PTA.". The "should" in this case must not be interpreted as merely a casual suggestion but rather a legal definition regulated by the state's Physical Therapy Practice Act. Any treatment or procedure that **should** be performed by a licensed professional, **must** be performed by a licensed professional. (*APTA's Guide for Professional Conduct, Principle 4.2.B*)

Case Study #3 – Informed Consent

Sam is a PT who has just received orders to begin ambulation with a 75-year-old woman who is s/p right hip ORIF. He goes to her hospital room to evaluate her and begin ambulation. She says she does not want therapy today because she is in too much pain. Sam explains to her that the doctor has left orders for her to begin walking. The patient refuses. Sam leaves and returns the next day to try again. Again, she declines treatment and he leaves.

Under the guidelines of informed consent, were the therapist's actions adequate?

Informed consent is the process by which a fully informed patient can participate in choices about their health care. It originates from the legal and ethical right the patient has to direct what happens to their body and from the ethical duty of the therapist to involve the patient in her health care.

The most important goal of informed consent is that the patient has an opportunity to be an informed participant in their health care decisions. It is generally accepted that complete informed consent includes a discussion of the following elements:

- the nature of the decision/procedure
- reasonable alternatives to the proposed intervention
- the relevant risks, benefits, and uncertainties related to each alternative
- the consequences on non-treatment
- the goals of treatment
- the prognosis for achieving the goals
- assessment of patient understanding

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- the acceptance of the intervention by the patient

In order for the patient's consent to be valid, they must be considered competent to make the decision at hand and their consent must be voluntary. It is easy for coercive situations to arise in medicine. Patients often feel powerless and vulnerable. The therapist should make clear to the patient that they are participating in a decision, not merely signing a form. With this understanding, the informed consent process should be seen as an invitation for them to participate in their health care decisions. The therapist is also generally obligated to provide a recommendation and share their reasoning process with the patient. Comprehension on the part of the patient is equally as important as the information provided. Consequently, the discussion should be carried on in layperson's terms and the patient's understanding should be assessed along the way.

The therapist's actions were not sufficient. None of the required information was offered to the patient. The most important thing the therapist failed to explain to the patient was the consequences of non-treatment. The patient cannot make an informed decision regarding therapy without this information. It could be argued that her decision to refuse therapy may have changed had she known that one of the consequences of this decision could be the development of secondary complications. (i.e. increased risk of morbidity or mortality). (*APTA's Guide for Professional Conduct, Principle 2.4*)

Case Study #4- Medical Necessity

Steve is a physical therapist and owns his own therapy clinic. He recently signed a contract with an HMO to provide physical therapy services. The contract stipulates that Steve will be compensated on a case rate basis. (A fixed amount of money per patient, based on diagnosis) Steve has performed a thorough cost analysis on this contract and has determined that the financial "breakeven" point (revenue equals expenses) on each of these patients is 5 visits. He informs his staff that all patients covered by this insurance must be discharged by their fourth visit.

Is limiting care in this manner ethical?

Therapists are obligated to propose and provide care that is based on sound medical rationale, patient medical necessity, and treatment efficacy and efficiency. It is unethical to either alter or withhold care based on other extraneous factors without the patient's knowledge and consent.

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In this instance, the decision to limit care is not ethical. The quantity of care is not being determined by the medical necessity of the patient. A therapist must be able to justify all of their professional decisions (such as the discharging of a patient from clinical care) based on sound clinical rationale and practices. (APTA's Guide for Professional Conduct, Principles 7.1.C and 8.1.C)

Case Study #5 – Conflicts of Interest

Debi Jones PT works in an acute care hospital. She is meeting with a vendor whose company is introducing a new brace onto the market. He offers her 3 free braces to “try out” on patients. The vendor states that if Debi continues to order more braces, she will qualify to receive compensation from his company by automatically becoming a member of its National Clinical Assessment Panel.

Does this represent a conflict of interest?

Yes, there exists a conflict of interest in this situation. Debi has two primary obligations to fulfill. The first is to her patient. It is her professional duty to recommend to her patient a brace that, in her judgment, will benefit them the most. The second obligation is to her employer, the hospital. As an employee of the hospital it is her responsibility to manage expenses by thoroughly and objectively seeking effective products that also demonstrate economic efficiency. The conflict of interest occurs when she begins to accept compensation from the vendor in direct or indirect response for her brace orders. Even if she truly believes it is the best brace for her patient, and it is the most cost effective brace the hospital could purchase, by accepting the money she has established at least an apparent conflict of interest. Under this situation she is obligated to disclose to all parties her financial interest in ordering the braces. This disclosure is necessitated because the potential for personal gain would make others rightfully question whether her objectivity was being influenced.

A conflict of interest is a situation in which a person has a private or personal interest that influences the objective exercise of his or her professional duties. As a professional you take on certain responsibilities and obligations to patients, employers, and others. These obligations must take precedence over a therapist's private or personal interests.

In addition to avoiding all real instances of conflict of interest, therapists must also avoid any apparent or potential conflicts as well.

An apparent conflict of interest is one in which a reasonable person would think that the professional's judgment is likely to be compromised, and a

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potential conflict of interest involves a situation that may develop into an actual conflict of interest.

How do you determine if you are in a conflict of interest, whether actual, apparent, or potential? The key is to determine whether the situation you are in interferes or is likely to interfere with your independent judgment. A good test is the 'trust test': Would relevant others (my employer, my patients, professional colleagues, or the general public) trust my judgment if they knew I was in this situation. Trust is at the ethical heart or core of this issue. Conflicts of interest involve the abuse, actual or potential, of the trust people have placed in professionals. This is why conflicts of interest not only injure particular patients and employers, but they also damage the whole profession by reducing the trust people generally have in therapists. (*APTA's Guide for Professional Conduct, Principles 7.2.A 7.2.B*)

Case Study #6 – Relationships with Referral Sources

Larry Jones PT owns a private practice. Business has been poor. He decides to sublease half of his space to an orthopedic surgeon. Larry's current lease is at \$20/sq ft. The doctor wants to pay \$15/sq ft. They come to a compromise of \$17/sq ft. Larry also agrees that if the doctor is his top referral source after 3 months, he'll make him the Medical Director of the facility and pay him a salary of \$500/month.

Is this an ethical arrangement?

No, this agreement is not ethical. The most notable infraction involves offering to designate the physician as Medical Director contingent upon the number of referrals he sends. This is undeniably a direct offer of cash for patients. Another area of concern is the rent. At first glance, the rent amount of \$17/sq ft seems fair because it was a compromise between the two parties. However, closer scrutiny reveals this to be unethical. The fair market value for rent has been established as \$20/ft. (Larry's current rental agreement with his landlord) By discounting the doctor \$3/sq ft on his rent, Larry is giving a referral source something of value.

It is unethical for a physical therapist to offer **anything of value** to physicians or any other referral source **in direct response for the referral of patients or services**. This includes cash, rebates, gifts, discounts, reduced rent, services, equipment, employees, or marketing. Many mistakenly believe that it is a normal acceptable business practice to offer these things to referral sources. It is not. In most states, the practice is not only unethical, but it is also illegal. Exchanges of valued items or services between therapists and referral sources **must never**

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have any relationship to the referral of patients. Goodwill gifts of nominal value are acceptable provided that no correlation can be made between the magnitude or frequency of the gift giving and referral patterns. All business agreements and transactions should always be well documented and most importantly, **reflect fair market value.** (APTA's *Guide for Professional Conduct, Principle 9.1.D*)

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ETHICS – TEXAS PHYSICAL THERAPY POST-TEST

1. The ethics theory that proposes that right and wrong are determined by the consequences is called
 - A. Utilitarianism
 - B. Social Contract Theory
 - C. Ethical Intuitionism
 - D. Virtue Ethics

2. The duty to tell the truth is also known as
 - A. Autonomy
 - B. Beneficence
 - C. Nonmaleficence
 - D. Veracity

3. Which of the following is not permissible under the Rules of the Texas Physical Therapy Board?
 - A. PT treatment of a patient referred by a physician's assistant
 - B. PT evaluation of a patient without a referral.
 - C. Provision of emergency care by a PT to prevent serious impairment to bodily functions.
 - D. PT treatment without referral for up to 60 days to home health patients previously referred to therapy within the last 12 months.

4. A Texas licensed PTA may do all of the following, EXCEPT:
 - A. administer ultraviolet therapy
 - B. teach a patient's family members to do selected treatment procedures
 - C. recommend an assistive device to a patient
 - D. identify architectural barriers

5. Which of the following is FALSE regarding supervision?
 - A. A supervising PT must be on call and readily available when physical therapy services are being provided by a PTA.
 - B. A PT can supervise no more than 3 PTAs at one time.
 - C. PTA's may supervise physical therapy aides
 - D. Supervising physical therapists must hold documented conferences with the PTA regarding the patient.

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6. The principles of ethical practice set forth in the APTA Code of Ethics are binding on which of the following?
 - A. Only those physical therapists who are current paid members of the APTA
 - B. Only physical therapists engaged in active clinical practice
 - C. Only physical therapists with masters degrees or higher
 - D. All physical therapists

7. Which principle of the APTA's Guide of Professional Conduct addresses the patient's right to select their physical therapy provider?
 - A. Principle 2.1 (B)
 - B. Principle 2.4 (E)
 - C. Principle 4.1 (H)
 - D. Principle 8.2 (A)

8. Which principle of The APTA's Guide of Professional Conduct prohibits consensual sexual activity between a therapist and a patient?
 - A. Principle 8.2 (B)
 - B. Principle 7.1 (D)
 - C. Principle 4.2 (A)
 - D. Principle 2.1 (C)

9. The "Trust Test" is used to determine
 - A. Informed Consent
 - B. Medical Necessity
 - C. Conflict of Interest
 - D. Fair Market Value

10. Which of the following is unethical?
 - a. Having a referring physician as your facility's Medical Director
 - b. Sending holiday cookies to all local case managers
 - c. Giving concert tickets to the doctor who refers the most patients each month
 - d. Subleasing office space to a physician

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