

GROUNDING YOUR PRACTICE:

ETHICAL DECISION MAKING FOR SCHOOL-BASED THERAPISTS

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WISCONSIN RULES & REGULATIONS UPDATE

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Chapter PT 1.02

- **Definitions.** As used in chs. PT 1 to 9:
- **(1)** "Board" means the **physical therapy examining board**.

(Previously physical therapy affiliated credentialing board)

Chapter PT 1.02 (8)

- **(8)** "Informed consent" means a client's voluntary, knowing and understood agreement to the service to be provided by the physical therapist, physical therapist assistant, temporary licensee, candidate for reentry, or student. Informed consent requires, at a minimum, that the licensee has provided *information about reasonable alternate modes of diagnosis and treatment, and the risks and benefits of each*, that a **reasonable person** in the client's position would need before making an informed decision concerning the mode of treatment or diagnosis.

- **(a)** Informed consent may ordinarily be *documented* by the written signature of the client, the client's guardian or the client's power of attorney for healthcare, or in the alternative by a notation in the patient's health care record as defined in s. 146.81 (4), Stats. If circumstances prevent signed documentation by the client, the licensee may document verbal consent within the patient's health care record.

- **(b)** A client may *withdraw informed consent* verbally or in writing at any time before a service is completed
- **(c)** Informed consent shall include an understanding that the client may, upon *request*, have a *chaperone present* while services are provided.
- **(d)** *No service* or part of a service may be provided *without the client's informed consent* or after informed consent has been *withdrawn*.

- **(e)** No service or part of a service may be provided without informing the client of the *general nature of the costs associated with the service* provided or contact information for the entity who can address billing concerns.

WISCONSIN REGULATIONS CHAPTER 7: UNPROFESSIONAL CONDUCT

(20) Failure to inform a patient or client of the costs, benefits and risks of viable physical therapy intervention and treatment alternatives.

Chapter PT 1.02 (9)

- "Intimate parts" has the meaning given in s. 939.22 (19), Stats. (19)
- "Intimate parts" means the breast, buttock, anus, groin, scrotum, penis, vagina or pubic mound of a human being. [939.22 (19)]

Wisconsin Regulations Chapter 7: Unprofessional Conduct

(19) Engaging in inappropriate sexual contact, exposure, gratification, or other sexual behavior with or in the presence of a patient. *For the purposes of this subsection, an adult receiving treatment shall continue to be a patient until the time of final discharge from physical therapy.*

What's next?

- Anticipate new information regarding PT 7 about unprofessional conduct and the Code of Ethics
- WPTA has been collaborating with the PTEB and this legislation is awaiting the Governor's signature.
- The new PT-7 will formally incorporate the APTAs code into administrative rules thereby strengthening the enforceability of the code of ethics to better protect the public.

HOW DOES THIS APPLY TO
YOU AS SCHOOL
THERAPISTS?

HOW DO WE RENDER AN ETHICAL JUDGMENT ?

Facts passed through values and context

In review:

- Codes of Ethics are based on ethical principles
 - Non-maleficence
 - Beneficence
 - Justice
 - Patient Autonomy
- Establishes standards
- Basis for public accountability
- Provides guidance when solving ethical problems

Moral Judgments

- Invoke our beliefs about:
 - conduct: we judge acts as “right” or “wrong”
 - character traits: we judge persons/institutions as “good” or “bad”
 - motives: we judge motives as “praiseworthy” or “blameworthy”

**MORAL JUDGMENTS
CAN BE FLAWED...**

Biases...

- We live in a classist, racist, sexist, homophobic, ageist, ablest society
- Society expects our Profession to be free of biases & prejudices
- We are expected to be caring, compassionate, sensitive, objective, and fair

**ETHICAL DECISIONS ARE
NOT THE SAME AS
MORAL JUDGMENTS!**

Whose decision is it anyway?

- *Moral agent* (Purtilo)
 - Has the authority to act
 - Able to understand
 - Free to act voluntarily
 - Use of one's best judgment

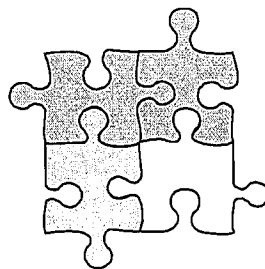
WHO IS THE MORAL
AGENT?

Types of situations

- Ethical issue/problem
- Ethical distress
- Ethical dilemma
- (Ethical Temptation)
- (Ethical Silence)

An Ethical Problem

- The practitioner is confronted with challenges or threats to their moral duties and values. It causes a need to reflect on a course of action.



Ethical Distress

- The focus is on the individual:
 - I know the course of action to take but there is a barrier in the way of my doing what is right.
 - The person identifying the problem feels some discomfort because they are being prevented from “doing what is right”.

CAN YOU TELL THE
DIFFERENCE?

Distress or Stress ! ? !

- There is a barrier that keeps you from doing what you know is “right”

- Institutional
- Financial

Often the perception of students

- Something is wrong, but you are not sure what it is.
- What if nobody else seems to think anything is wrong - Am I mistaken?

An ethical dilemma

- This is an uncommon type of problem that involves two (or more) morally correct courses of action that cannot both be followed.
- The practitioner is doing something right...and wrong simultaneously. *Students sometimes get forced into this type of situation.*

Between a rock and a hard place

WHAT IS THE SITUATION?

Rendering ethical judgments:

- You will render a judgment on an ethical problem you are facing
- You will render a judgment on the actions of others

When *judging* others actions (Purtilo):

- Who is the moral agent?
- What are the circumstances?
- What is the agent's intent?
- What are the consequences?

Ethical Behavior

- Individual Process
- The four component model (Rest)
 - Moral Sensitivity
 - Moral Judgment
 - Moral Motivation (temptation)
 - Moral Character

Moral Sensitivity

- Person without moral sensitivity fails to act ethically because it does not occur to them that what they are doing may affect another person.
- Moral sensitivity is the awareness of how our actions affect other people.
 - Involves empathy and role taking skills

Moral Judgment

- The person is aware of possible lines of action and how people might be affected by each line of action.
- Involves gathering information before rendering a judgment

Are there any special considerations from the student perspective?

Moral Motivation (temptation)

- How do we account for evil people?
 - A competing value within the individual completely compromised a moral value
generally accepted by reasonable people.
- The student is motivated by what is right. However, is doing the right thing going to have an impact on the student taking their place in the PT professional world?

Moral Character (Courage to act)

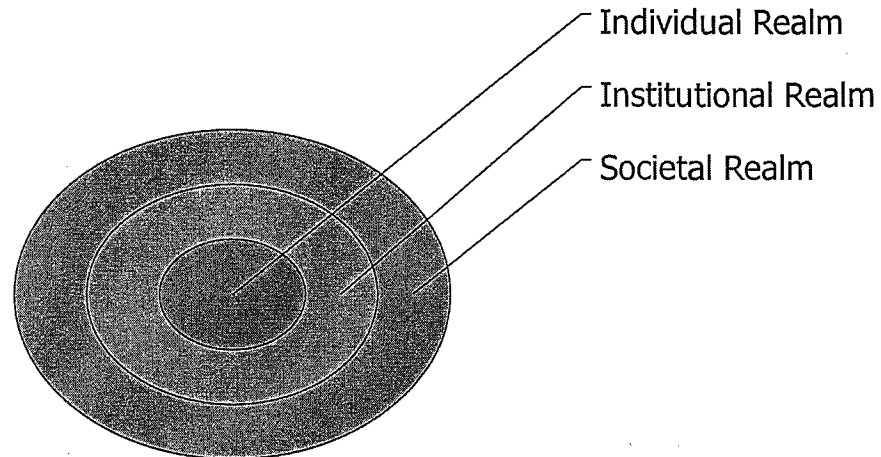
- This component involves ego strength
- Requires perseverance, toughness, strength of conviction and courage.
- Knowledge of what is wrong... *willingness to take action to correct it*. This is the essence of professional behavior

Moral Failure (Silence)

- Moral failure occurs when there is absence of any of the four components (sensitivity, judgment, motivation, character)
- Ethical decision making is the complex interaction between all four components.
- Completion of the components are not always sequential. fashion

WHERE IS THE
INDIVIDUAL PROCESS?

Glaser's Three Realms of Health Care



Glaser's Framework

- **Societal Realm**: Primary concern is attending to the common good. Highly complex problems and issues
- **Institutional Realm**: Primary concern is the good of the organization. Focuses on structure to facilitate institutional goals
- **Individual Realm**: Primary concern is the good of the patient. Lower complexity of problems

Societal ethics: Goodness of a society (city, state, country).

It attends to political, economic, legal, educational, systems so that society is an environment in which persons can be born, grow, labor, love, flourish, age, and die as humanely as possible. Societal ethics deals primarily with the key systems through which it achieves its purpose and in which reflect its ethical character.

If the problem we are facing rests in the societal realm, we seek societal changes within its systems for its solution. These solutions require unity and an acknowledgement of inter-dependence.

Institutional ethics: Goodness of families, agencies, corporations.

How it accomplishes its mission, vision, values, and goals in context of its duties

Individuals within institution are accountable

If problem is related to institutional structure, policies or practice, try & change the way the institution functions.

There may be societal elements influencing the policies being enacted.

Individual ethics: Goodness of individuals.

Rights and duties that exist between separate individuals.

Deals with the behaviors and virtues of individuals.

Seek solutions within that relationship

Individual ethical problems require that we be aware....

WHAT REALM?

A Model of Decision Making Adapted for physical therapists

- The Adapted Rushworth Kidder Model
How Good People Make Tough Choices. Resolving the dilemmas of Ethical Living, 1995.
- The RIP's model based on the work of Swisher and the Ethics and Judicial Committee of the APTA.
 - R= realm (Glaser)
 - IP = individual process (Rest)
 - S = situation (Purtilo)

Recognize ethical issue

- Is this about right versus wrong?
- Is the problem at the individual, institutional, or societal realm?
- Is the problem one of sensitivity, judgment, or courage?
- Is this an issue? Distress or Dilemma? (temptation or silence?)

Reflect:

- Who are the stakeholders? What are their interests?
- What are the relevant fact?
- What ethical principles, values, virtues are involved?
- Right Vs. Wrong
 - Legal test
 - Stench test
 - Front-page test
 - Mom test
 - Professional Ethics test

Who are the stakeholders?

- Therapist
- Other professionals/staff
- Patient(s)
- Family/friends of patient
- Employer/Hospital
- Third party payer
- Professional Association
- Society
- Others?

Decide

- Implement and assess the course of action
- Use your imagination

Analyze the course of action

- Determine if further action needs to be taken?
- What did you (and others) learn from the process?
- Do organizational structures or policies require revision?

LIFE IS DIFFICULT

"Peck"

SCENARIO ONE

SCENARIO TWO

SCENARIO THREE

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