

WV BOPT - BOARD NEWS

Spring/Summer 2007

Dear Physical Therapists and Assistants:

(By: Sally B. Oxley PT, CHT, OCS, Cert MDT, Board Chair)



Ask yourself this question: are you an Ambassador for your profession? An Ambassador demonstrates every day his or her commitment to the Practice of Physical Therapy. This demonstration may be in the form of a conversation, the way you present yourself to the public, or in the manner of care that you provide.

How you present yourself as a Physical Therapist or as a Physical Therapist Assistant leaves a lasting impression. Hopefully, that impression is a positive one. As a PT or PTA you represent others in your profession. I am of the belief that each of us has an effect on the other, our patients, our community, and on the world as a whole.

There may or not be a Creed by which PT's and PTA's should live; but if we did have one, it might go something like this:

Physical Therapists' and Physical Therapist Assistants' Creed

“As a Licensed Professional, I dedicate my professional knowledge and skill to the advancement and betterment of human welfare. I pledge to conduct and govern myself with excellence; to give the utmost of performance; to participate in none but honest enterprise; to live and work according to the Laws of man and the highest standards of professional ethical conduct; to place service before profit; honor and understanding of the profession before personal advantage; and the public welfare above all considerations. In humility and with the need for Divine Guidance, I make this pledge.”

Merriam-Webster's outlines the definitions for the term **“ethics”** as a set of principles of right conduct, a theory or a system of moral values, and rules or standards governing the conduct of a person or the conduct of the members of a profession.

A practical approach that is highly recognized in the field of ethics studies is a series of tests that one should answer when deliberating an action. These tests were outlined by Michael Davis, author of “Developing and Using Cases to Teach Practical Ethics”, Teaching Philosophy (1997). They are as follows:

1. **Harm Test:** Do the benefits outweigh the harms, short term and long term?
2. **Reversibility Test:** Would I think this choice was good if I traded places?
3. **Colleague Test:** What would professional colleagues say?
4. **Legality Test:** Would this choice violate a law or policy of my employer?
5. **Publicity Test:** How would this choice look on the front page of a newspaper?
6. **Common Practice Test:** What if everyone behaved in this way?
7. **Wise Relative Test:** What would my wise old aunt or uncle do?



Consider the following insightful quotes:

“No man can always be right. So the struggle is to do one’s best to keep the brain and conscience clear; never to be swayed by unworthy motives or inconsequential reasons, but to strive to unearth the basic factors involved...and then do one’s duty”

-Dwight D. Eisenhower

“Values are like fingerprints. Nobody’s are the same, but you leave ’em all over everything you do.”

-Elvis Presley

Our profession needs Ambassadors who will celebrate the practice of Physical Therapy; share with others the satisfaction of being able to help patients who are suffering, and/or grieving; those who need education, kindness and consideration. These Ambassadors encourage others to follow in their footsteps by sharing the rewards of a profession with which no other can compete. Each one of us is the face of Physical Therapy. What face do you want people to see?

Now, as I leave you with this “food for thought”, let me say it has been an honor serving on the Board the last ten years.

-Sally B. Oxley-
Board Chair



Ten Easy Ways to Lose Your License

By: Kathleen Barnes

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“I am a member of the Board of Allied Health Professions in Massachusetts. For the past eight years, we have been offering the “Ten Easy Ways to Lose Your License” program in Massachusetts. For the last four years, we have been a standing program at the Massachusetts chapter level. We get invited to the smaller district meetings as well ...and lately, hospitals and facilities have been inviting us out to do this as an educational program for them as part of their in service education.

Pull quote: It continues to surprise me that there is such a need and a call for the presentation.

It continues to surprise me that there is such a need and a call for the presentation. We simply offer the rules and regulations, give an anecdotal story of why this is important or why one should not do particular behaviors and explain how not following the regulations could potentially cause someone to lose a license or come before the Board for discipline.

I am going to walk you through what we have been doing and offer it to you as a template if you want to go back to your jurisdictions and adapt this to meet your needs. Once or twice a year our Board holds its meetings offsite; usually one of the PT or PTA programs in the state will invite us to come for the day.

Ten Easy Ways to Lose Your License (Cont.)

By: Kathleen Barnes

Students, faculty and staff can come and go to the open portion of our Board Meetings. It is a nice way for them to get to see the work of the Board. We travel with our full Board, our legal counsel, our Administrators and our Investigators. Somewhere in the middle of the day we will put on an hour or hour and half program on the “Ten Easy Ways to Lose Your License”.

This is a program that can be done by one person or the whole Board. If it is done by the whole Board, everyone will take a segment. We start with an overview of our division of professional licensure, going through all the different offices within our division. The Board staff introduces themselves and explains their roles.

These are the 10 things we cover in the “Ten Easy Ways to Lose Your License”:

- ◆ Sexual misconduct
- ◆ Substance abuse
- ◆ Professional discipline like criminal convictions or unethical conduct
- ◆ Fraud and misrepresentation
- ◆ Patient abuse
- ◆ Medication violations
- ◆ Unethical behavior
- ◆ Poor documentation or record keeping
- ◆ Unlicensed practice
- ◆ Boundary violations



Sexual Misconduct - It is important to send the message that, “No, you may not have a sexual relationship with your patient, especially a minor”, and to emphasize that this could mean any sexual relationship such as inappropriate speech or touching, gestures, etc.... Keep in mind that the regulations are going to vary from jurisdiction to jurisdiction. Therapists also need to be reminded of patient misperceptions of treatment; there are cultural, age or gender differences where it is inappropriate to touch. These may be common-sense things, but I am always amazed at the therapist who forgets to obtain an informed consent.



Substance Abuse - Massachusetts has a professional recovery system in place to work with therapists who have an alcohol or drug dependency. We go through entrance requirements for them to qualify for this program and tell anecdotal stories about drinking that is not appropriate on the job.

Professional Discipline - Lately, there has been an increase in creating false records for patients who do not exist as well as creating false billing. We explain why it is wrong to forge a patient’s signature on an informed consent or to falsify staff signatures on insurance forms or checks. I also remind therapists not to default on student loans because they will lose their license Be aware that a common response is: “No one ever told me that!”

Also, I had a student who had graduated six months ago, and was practicing but had not yet applied for

Ten Easy Ways to Lose Your License (Cont.)

By: Kathleen Barnes

Professional Discipline (Cont.)

licensure in the state. I told her supervisor, "You are in trouble with your billing and anything that the Student has done." My colleague just looked at me. Then I found out there were 20 others in her class that had done the same thing. We now are trying to wrestle with graduate practice. (We do not want to open up temporary licensure again in our jurisdiction.) We are trying to figure out how to work with the schools as well.

Fraud and Misrepresentation - This involves charging different fees for private payers versus insurance. I am just amazed at this one. People will brazenly show us that they have printed two different fee schedules. Also, if they do have an insurance fees schedule, we will find them coding for a different reimbursement. We have also found some changing of treatment dates. We explain why that is a dumb move. Someone may call for medical records and see that there is a different handwriting or a different color pen or something is squeezed in between the lines.

Some therapists claim ignorance on codes. They were using the wrong codes for the wrong things and said things such as, "What do you mean I cannot do a hot pack and cold pack and electric modality?"; and, "Why can I not go for all of those because they are unbundling?"

We have also seen students come before us with false college degrees. I guess you can go on the Internet and just create your own transcripts and your own degrees. It just amazes me that you cannot take degrees at face value; today you really have to verify them.



Patient Abuse - We talk about this in terms of responsibility. If a person suspects abuse of patients, whether it is a child or a spouse, he should look for signs and symptoms and know how to report it. We reiterate that when working with the elderly, there are a lot of potential malpractice cases where fractures have occurred by therapists because they were not doing standard practices of care while taking a proper course with that patient and a fracture resulted.

Medication Violation - This is different in every state. In Massachusetts, we cannot dispense or administer or provide advice about medications beyond our scope. There are many cases where a therapist has prescribed or told a patient to take Advil or other medications that contradicted medications that they were also taking.

Unethical Behavior - We cannot discriminate against age, race, religion or sex. I had a young lady from India who was fine on Friday when she left school and somewhere over the weekend had this epiphany that she was going to get her tongue, nose, belly and ears pierced. This was part of her culture, but she was working with cultures that did not accept all of this. The debate was, do we tell her to remove all of the body piercings or tell her not to work with those patients. I got a call from her the next day and she asked if it was alright if she took out all of the piercings before she went to work and then put them back in at the end of the day. I said that was probably in her best interest. Usually, however, the therapists will say, "That was just discriminating against me. If I want to have my tongue pierced that is my right and if you tell me to take it out, that is discrimination." Of all the serious cases concerning age, race, religion and sex, we still have to deal with the question of tattoos! In Massachusetts, we suggest to our facilities

Ten Easy Ways to Lose Your License (Cont.)

By: Kathleen Barnes

Unethical Behavior (Cont.)

that they create their own dress codes and work with their legal counsel to make sure that it is within the legal parameters of the jurisdiction.



Advertising can also constitute unethical behavior. I cannot even read the newspaper for pleasure anymore because I see ads where clinics are giving free treatment and free Game Boys if people go to their clinic. This is not unfair, deceptive, fraudulent or misleading advertising if the services are actually free. But you cannot advertise “free” and then say, “Oh, by the way we need your co-pay,”; or “Oh, by the way, that was just for this free screening; your real treatment is really \$100.” We even had people advertising for free services when those services did not even exist.

Poor Documentation - There is no excuse for not documenting properly. You can download guides for documentation and reimbursement and there are several books and handbooks as well, along with reference lists. Yet sometimes we find: (1) if you can read it, you are lucky; (2) that there are just key elements - - there is no way you could reproduce or figure out what happened; and, (3) there is no actual evidence/information to be found in the documentation.

Unlicensed Practice - Ignorance is not acceptable. Evidently, people think they can get away with not getting a license and that insurance companies aren't going to alert us that there is billing activity under their name and number. I often feel like I am in a reality comedy show about unethical behavior. I'll hear, “I moved into our neighboring state and so I got a license there; and I only travel back every now and then, so I did not think I had to renew my Massachusetts' license.” Or, “I just forgot for ten years.” Massachusetts just went to a birthday rule - - you renew on your birthday; that may help.

Boundary Violations - We have an issue with aides coming from other jurisdictions where they are permitted to do more than they are allowed to do in Massachusetts and doing basically what a PTA would do. We have a lot of PTAs that cross borders, too; but what the PTA can do in each of the New England states is very different.



These ten things, the “**Ten Easy Ways to Lose Your License**”, are really ten common-sense things. You'd think everyone would know them but we have been doing this for eight years on a regular basis and I am often just shocked by the excuses, misinformation and failure to accept responsibility. For eight years, the ten items have remained the same, but you will probably see us altering this top-ten list soon. Violation of HIPAA requirements is going to probably bump something out.”

Disciplinary Action Taken By The West Virginia Board:

Michelle Bidwell PTA

After due investigation of a Complaint, the Board determined that there was Probable Cause to believe that Respondent did exhibit unprofessional and unethical conduct in the Practice of Physical Therapy in violation of the provisions of WV Code §30-20-1 et seq. and the Rules of the Board, 16 C.S.R. §1 et seq.

In lieu of a hearing, the parties reached an agreement for the resolution of the matter by entering into a Consent Agreement and Order. Respondent received a Reprimand and will reimburse the board for any and all administrative, procedural and legal costs associated with the dissolution of this Case.



Board Members:

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John C. Spiker PT, ATC
Lesleigh Barber PT, DPT
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Melanie Taylor PT
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