

Legal Practice of Physical Therapy

Laws and Regulations

Objectives

- *List the main points of the Americans with Disabilities Act*
- *Describe the role of licensure laws.*
- *Identify the organization responsible for creating and managing the National Physical Therapy Examination (NPTE)*
- *Explain four minimum standards for licensure/certification to enter the profession for physical therapists and physical therapist assistants.*
- *Describe the Occupational Safety and Health Administration and its role in health care.*
- *Discuss the importance of the bloodborne pathogens OSHA standard in health care, including physical therapy practice.*
- *Identify the Violence Against Women Act of 2013*
- *Describe domestic violence responses in health care and physical therapy.*
- *Identify two types of malpractice laws that can affect physical therapist assistants.*
- *Compare and contrast the principles of negligence and malpractice*

Laws Affecting the Practice of Physical Therapy

(Pierson Ch 13)



- **Americans With Disabilities Act (ADA)**
 - Federal Statute that prevents discrimination against persons with disabilities in:
 - Employment
 - Public Accommodations
 - State and local government services
 - Telecommunications

ADA Definition of Disability

- **Physical or mental impairment limiting one or more major life activities**
 - ADL's - ability to see, hear, speak, walk, care for self
 - Ability to maintain cardiorespiratory function
 - Perform manual tasks
 - Participate in formal and informal learning
- **Needs to have a record of such physical or mental impairment**
- **Impairment renders a disability status**

Title I of the ADA :

Protects against employment discrimination

- For businesses employing **over 15** persons
- Applies to persons who can perform essential functions of that job **with/without** adjustments to job or worksite
- Requires employers make reasonable accommodations

Reasonable Accommodations

- ADA :

Accommodations must be carried out unless employer can prove it causes undue hardship:

- Excessively disruptive
- Very costly
- Difficult to implement
- Would alter employer's business operation

Titles II, III, IV of the ADA

- **Title II:** Protects against discrimination related to **equal access to public services-** state and local services
- **Title III:** Protects against discrimination related to equal **public accommodations**
- **Title IV:** Protects against discrimination related to **telecommunications.**
- **Title V:** Miscellaneous section that discusses ADA relationship to other federal statutes. Protects states claiming immunity from Federal requirements. Protects individuals from retribution.

Laws Affecting Physical Therapy Practice

IDEA (Individuals with Disability Education Act)

Mandates access to free and appropriate public education to all children with disabilities.

Definition of a Child with a disability includes:

- Mental retardation
- Hearing impairments
- Speech or language impairments
- Serious emotional disturbance
- Orthopedic impairments
- Autism
- Traumatic brain injury
- Other health impairments
- Specific learning disabilities



Physical Therapy Services for Children with Disabilities

PART A

Includes acquisition of equipment, construction or alteration of facilities, employment and state administration procedures

PART B

the provision and implementation of a free and appropriate education

Education provided for ages 3 - 21 years old

PART C

birth to 2 years old

Furnishes services related to their educational needs



Licensure Laws

- State statutes giving licensees the right to practice
- Consumer protection
- State Practice acts to define the requirements
 - Education requirements
 - Foreign trained individuals
 - Temporary licensure
 - Reporting of unethical conduct
 - Re-licensure (i.e. annual renewal)

Federation of State Boards of PT (FSBPT) <https://www.fsbpt.org/>

- Responsible for licensure examination
- Works towards uniformity in regulation of state boards including the passing score for PT's and PTA's
- State Practice Acts supersedes FSBPT

Physical Therapist Assistant Supervision Requirements

- **APTA:** Physical therapist assistants are educated and licensed clinicians who provide care under the direction and supervision of a licensed physical therapist. Physical therapist assistants implement components of patient care, obtain data related to the treatment provided, and collaborate with the physical therapist to modify care as necessary.
- **Types of supervision: varies by state**
 - Onsite:
 - General:
 - Indirect:

Occupational Safety and Health Administration's Federal Standards

OSHA

Designed to **protect workers** from infectious diseases, especially blood borne diseases

Promoted to **reduce risk of HBV/HIV exposure** to healthcare workers and patients

Health care facility responsibilities include:

- Employee education

- Provision of PPE

- Offer HBV vaccines

- Provide containers for proper disposal

- Exposure education-

- Complete Exposure Control Module*



Elder or Domestic Abuse (VAWA)

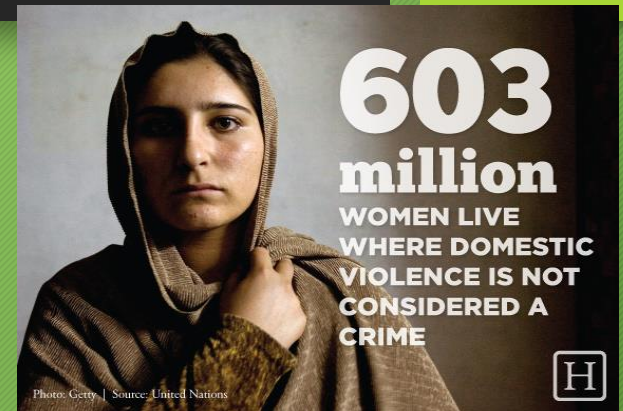
Abuser may use physical and economic control to limit victim's access

Regular visits to PT allows victim to form a relationship with clinician - threatening to abuser

Abuser may not allow victim to continue treatments

Victim may appear non-compliant

Look for additional injuries such as bruises, black eyes, burns, joint damage, vision or hearing loss



Malpractice Laws

Malpractice may include:

- Professional negligence
- Intentional misconduct
- Patient injury from abnormally dangerous treatment/exam
- Patient injury from dangerously defective examination/treatment related products

FAILURE TO DO OR NOT DO:

SOMETHING THAT A REASONABLY PRUDENT MEMBER OF THE PROFESSION WOULD HAVE DONE OR NOT DONE

PTA Malpractice Risks

Performances that result in harm to the patient

- Statute of limitation of 1-4 years after injury

Examples:

- Burns due to defective equipment
- Utilization of defective equipment (walkers, etc)
- Patient falls during gait training
- Exercise injuries
- Action/inaction inconsistent with APTA ethical principles and standards of practice

- PT/PTA's may be asked to testify as expert witnesses
- **Employer** can be held liable for negligence or malpractice of employees if committed within scope of practice

Malpractice examples:

- **The Risks of Bending The Rules:**

- A physical therapist, for example, may ignore her facility's policy requiring the use of gait belts in the interest of promoting a patient's independence.
- Even if a patient is not harmed, bending the rules can put your ability to practice in jeopardy.

<https://www.hpsso.com/>

Documentation Is the Legal Record

- The patient's right to privacy - informed consent; HIPPA

Legal proof of the care provided

Protects patients/caregivers

Records for depositions in court cases - malpractice, Workman's Comp, and accidents

Incident report: any eyewitness for 72 hours

- Written physical therapy records should be kept in a safe and secure place for 3-7 years.

