



## **Navigating Ethics and Morals vs. Professional Conduct**

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Where is the intersection of ethics, morals and standards for professional conduct?

Ethics are moral principles that govern a person's or group's behavior or the moral correctness of specified conduct. Morals are concerned with the principles of right and wrong behavior, the goodness or badness of human character and the code of interpersonal behavior that is considered right or acceptable in a particular society. Morals also refer to holding or manifesting high principles for proper conduct and refer to a person's standards of behavior or beliefs concerning what are and is not acceptable for them to do.

The United States constitution articulates fundamental rights, standards for due process and principles of accountable government. Fundamental rights include obtaining a license if the applicant has completed a PT education, passed the required examination and have no other substantive grounds upon which to deny a license such as a criminal conviction.

Standards for due process cover how complaints are received by the board, how investigations are conducted and how disciplinary hearings are held. Principles of accountable government refer to your state's open meetings law, open records law and government purchasing and personnel laws.

Do your state boards do these things? You also have your own ethics being a member of the board.

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*"The law is the witness and external deposit of our moral life. Its history is the history of the moral development of the human race."* Oliver Wendell Holmes, Supreme Court Justice

*"However chaotic and uncertain modern life might appear, we still live by the Rule of Law."*  
Robert Traver, the Jealous Mistress

*“The virtuous need but few laws; for it is not the law which determines their actions, but their actions which determine the law.”* Theophrastus

*“I don’t want a lawyer to tell me what I cannot do; I hire him to tell me how to do what I want to do.”* J. Pierpont Morgan

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Ethics and morals have a place in the law. They are its foundation. So how do we do this?

In Kentucky, there is a statute for hearing instruments specialists. To get a license, it is required that the applicant “is a person of good moral character.” How do you know if this person has good moral character?

Another Kentucky statute lists items as cause for disciplinary action such as being “engaged in or attempted to engage in a course of lewd or immoral conduct.” Is unethical conduct against the law? Can moral principles really govern? Is a code of ethics truly enforceable by a state agency?

Kentucky General Assembly mandates that the Kentucky Board of Physical Therapy promulgate, via an administrative regulation, “a code of ethical standards and standards of practice.”

Therefore, the Kentucky Board of PT has a “Code of ethical standards and standards of practice for PT and PTAs.” This administrative regulation governs a code of ethical standards, standards of practice for physical therapist assistants, standards for supervision and standards for documentation.

It states:

- (1) PTs and PTAs shall respect the rights and dignity for all patients, practice within the scope of the credential holder’s training, expertise and experience, report to the board any reasonably suspected violation of KRS Chapter 327 or 201 KAR Chapter 22 by another credential holder or applicant within 30 days.
- (2) Report to the board any civil judgment, settlement or civil claim involving the credential holder’s practice of physical therapy made against the credential holder relating to the credential holder’s own PT practice within 30 days.
- (3) PTs and PTAs shall not verbally or physically abuse a client or continue PT services beyond the point of reasonable benefit to the patient, unless the patient consents in writing.

So this code runs the gamut from respecting rights to abusing clients.

The Board of Examiners of Psychology’s Code of Conduct states that the administration

regulation “governs client requirements, competence, impaired objectivity and dual relationship, client welfare, the welfare of supervisees and research subjects, protecting the confidentiality of clients, representation and disclosure of cost of services, assessment procedures and aiding illegal practice.”

That’s a code of conduct. Where did the Board of Examiners come up with this terminology? It consulted the APTA’s Code of Ethics and Guide for Professional Conduct.

I would submit that it’s not how honest you are, but how you follow the rules.

### **Fitting codes of ethics**

The FSBPT Model Practice Act states that “failing to adhere to the recognized standards of ethics of the physical therapy profession as established by rule” is grounds of denial of a license and certificate. It goes on to delineate the ethical obligations of all physical therapists as determined by the House of Delegates of the APTA. That’s a private entity, not a governmental body.

The APTA has these goals:

- Define the ethical principles that form the foundation of PT practice in patient/client management, consultation, education, research and administration.
- Provide standards of behavior and performance that form the basis of professional accountability to the public.
- Provide guidance for PTs facing ethical challenges, regardless of their professional roles and responsibilities.
- Educate physical therapists, students, other healthcare professionals, regulators and the public regarding the core values, ethical principles and standards that guide the professional conduct of the PT.
- Establish the standards by which the APTA can determine if a PT has engaged in unethical conduct.

These goals loop from ethics to morals and from morals to ethics.

It also states that PT practice is guided by a set of several core values that include accountability, altruism, compassion/caring, excellence, integrity, professional duty and social responsibility.

These are aspirational goals, but you can’t prove whether they were violated or not. Are they legally enforceable duties? Is being “rude” against the law or just tacky? Can you prove someone is not compassionate enough?

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*“The law does not pretend to punish everything that is dishonest. That would seriously interfere*

*with business.”*

– Clarence Darrow.

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Codes of ethics serve different purposes than a board’s rule of law. However, codes of ethics can be incorporated into the law.

The Kentucky statute that governs physicians defines “dishonorable, unethical or unprofessional conduct” but adds that it must also be “of a character likely to deceive, defraud or harm the public or any member thereof.” It also refers to “any departure from or failure to conform to the principles of medical ethics of the American Medical Association.”

I would suggest being careful how you refer to principles of another organization. It is better to “cut and paste” principles into your own administrative regulation.

### **Tips, techniques for the rule of law**

- Know the difference between ethics and morals versus professional conduct.
- Use legal and enforceable language in your board’s laws.
- Incorporate cautiously any other body’s code of ethics.
- Focus on violations of law, not only ethics or morals.
- Use a letter of concern where expressly authorized by law.



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Mark has represented the Kentucky Board of Physical Therapy since 1997 as general counsel and prosecuting attorney. Mark is a frequent national participant in continuing education and has been a presenter for multiple national and state organizations.