



This article is based on a presentation by Tina L. Baum, PT, DPT, WCS, ATC, CLT, Chair, Nevada Board of Physical Therapy Examiners; Larry Ohman, PT, Chair, FSBPT Ethics and Legislation Committee; and David Reed, PT, Board Member, North Carolina Board of Physical Therapy Examiners, at the 2017 FSBPT Annual Meeting.

Model Disciplinary Guidelines

The Federation of State Boards of Physical Therapy (FSBPT) is rolling out a new tool to help physical therapy boards make more consistent disciplinary decisions. Dubbed the Model Board Action Guidelines, it is a matrix that allows for the uniform and objective application of discipline.

It was designed to increase trust in the board to do its work, to provide transparency in the disciplinary process, and to show there's fairness to licensees and to the public and consumers. It was built by the Ethics & Legislation Committee to be flexible enough to be useable in all 53 jurisdictions. However, boards will have to plug in their own information to make it work.

The committee used the Model Practice Act as a background document to create the list of grounds for disciplinary actions from which the matrix's general shell was formed, but they also used some other state practice acts that have a more prescriptive type framework. The committee also performed a thorough review of existing guidelines. They looked at international guidelines of discipline for a variety of organizations, looked at other professions within the United States to find out what they were using for guidelines for discipline, and then they looked at PT-specific guidelines already in place in the United States.

Once the tool is completed, FSBPT will issue guidance and recommendations for implementation. It will include boards putting their grounds for action into the matrix and categorizing them for that particular state. The jurisdiction will also need to list all the possible remedial options and possible punitive options available to them, rank them, and then fit them into the categories of the matrix. The committee attempted to find the broadest range of possible punitive or remedial actions. Some of the options in the model guidelines do not exist in every state. Some states, for example, do not have an advisory letter or other non-public disciplinary option. If that's the case, states can eliminate that option from the matrix.

An important component of the matrix is a glossary creating operational, common definitions for terms that are used differently amongst the states. Because terms do not have identical meanings across the jurisdictions, a glossary of definitions will accompany the guidelines so boards can go through the tool and say, "Okay, this is what it means in our state, but we call it

something different." With that, the boards can switch to the terminology used in that state.

The guidelines also will prove useful if a board is faced with a situation they haven't dealt with before. The thought process behind the guidelines promotes a structure for analyzing the circumstances around any given basis for action. With the onset of the physical therapy license compact and the increased use of telehealth, there will be more mobility of licensees, and jurisdictions need to evolve in their practice patterns and their regulatory ideology. Within the compact, there is an understanding that each jurisdiction is independent in their decision-making process, but the beauty of these guidelines is to allow for flexibility while promoting consistency.

Where Did the Matrix Come From?

In a 2014 membership survey, 51% of respondents identified uniform practices across states and license portability as FSBPT's greatest challenge and opportunity and 77.7% of respondents agreed or strongly agreed with developing guidelines as a new and future initiative. In addition, model guidelines ranked as one of the top two new and future initiatives by 100% of committee chairs and 61% of board administrators.

The concept of a model disciplinary guidelines was tweaked a bit by the committee after delving into more of the background materials. The committee looked at the issues surrounding Just Culture and decided the tool needed to reflect remediation just as strongly as disciplinary issues. The committee then presented the project at the 2016 FSBPT Leadership Issues Forum Meeting and asked for membership feedback. Three key concepts that came from the feedback was the model needed to be flexible, it needed to acknowledge the differences between states, and it needed to permit boards to exercise judgment.

Even though it's a guideline, there's still an opportunity for individual board members to exercise judgment. Some states have a more independent board structure than others and have different rules and regulations and practice acts. Everything's not black and white. Some things the committee considered when developing the matrix were:

1. consistency with existing FSBPT and other professional documents,
2. balance of appropriate remediation versus punitive sanction, and
3. intent of the person who has a claim against them. What are the mitigating and aggravating factors? And, was it a one-time offense or is there a pattern of behavior and that can determine where the board goes in the matrix in terms of deciding whether the punishment is punitive, remediation, or both.

The committee also wanted to ensure the tool is user-friendly. They wanted it to be easy to understand so when a new board member comes on and gets ready to do their first board meeting, it's easy enough for them to be able to apply right away.

How the Matrix is Structured

A matrix is a chart that usually represents a linear progression, and in this matrix, it represents severity. Severity increases from top to bottom and left to right. On the left-hand side are the categories that define the rows, and on the top are the infractions that define the columns.

The left-hand axis is color-coded from the least severe, blue or “an offense of failing to act,” to the most severe, red or “an offense of action — implications or consequences of licensee action potentially extend beyond limits of the clinic.” Board members choose the appropriate color category for the grounds for action from a pre-created list, and this becomes the horizontal axis used.

	Type I		Type II		Type III	
	Isolated	Multiple	Isolated	Multiple	Isolated	Multiple
An offense of failing to act	A	B	1 & A	2 & A	2 & A	2 & B
An offense of action - potential for harm is expected to be primarily financial or ethical	1 & A	2 & A	2 & B	3 & B	3 & B	3 & C
An offense of action - potential for harm is expected to be related to clinical issue	1 & B	2 & B	2 & C	3 & C	3 & C	4 & C
An offense of action – implications or consequences of licensee action potentially extend beyond limits of the practice setting	2 & C	2 & C	3 & B	3 & C	3 & C	4 & C

*Cost of investigation and administration of violations may be assessed in any/all cases

Table 1.

The top axis contains the factors to consider when imposing remediation and discipline in three categories, Type I, Type II, and Type III. There are two columns under each type for one-time and repeat offenders. The board should refer to the factors in Table 2 to determine where the licensee’s action fits best. This determines the vertical column of the matrix to be used.

Type I Factors to Consider- all may not apply	Type II Factors to Consider- all may not apply	Type III Factors to Consider- all may not apply
<ul style="list-style-type: none"> • Unintentional error • Licensee believes acting in patient's best interest; no self-serving intent • Honest mistake • Safety not compromised • Little to no intended risk 	<ul style="list-style-type: none"> • Poor judgement demonstrated • Acting in licensee's own best interest • Conscious awareness act is improper • Faulty decision-making is evident • Potentially unsafe choice • Risk believed to be insignificant or justified 	<ul style="list-style-type: none"> • Harmful intent with or without direct harm to the patient including but not limited to: financial, emotional, physical • Acted with recklessness • Disregard for interest of patient or others • Dangerous or unsafe choice • Decision with conscious disregard of substantial and unjustifiable risk to the patient, others, or licensee

Table 2.

The Board will find the intersection of the selected horizontal and vertical axis determined by the above steps. In the intersection, there is a letter and a number representing the appropriate class of punitive and remedial actions the Board should consider. The remediation and punitive actions are broken into classes with a range of options for each class. Remediation is represented by letters and punitive actions by numbers (see Table 3).

Punitive Actions		Remedial Actions	
Class 1	Civil Penalty + Censure	Class A	Advisory letter → Continuing Competence Activity
Class 2	Civil Penalty + Censure → Denial of License	Class B	Periodic Monitoring → Supervised Clinical Practice
Class 3	Civil Penalty + Restricted License → Revocation	Class C	Continuing Competence Activity → Treatment Program
Class 4	Civil Penalty + Denial of License → Revocation		

Table 3.

10 Steps to Successfully Navigate the Matrix

There are 10 steps to successfully navigating the matrix. Boards are doing most of these things anyway, so the process should not be overwhelming.

1. Determine the grounds for disciplinary action. The board will have already done the work of categorizing each grounds into the color bands seen in the matrix in Table 1.
2. Determine if it's an isolated incident or multiple events. Is it a single, one-time occurrence, a pattern of behavior over a period of time, or has this person been disciplined for the same thing in the past?
3. Determine the infraction type (i.e., Type I, II, or III on the top axis). This is where there is maybe a little bit of debate and a little bit of discussion. It's probably the most complicated step. Boards are looking at things like the risk assumed on behalf of the

patient, the risk taken, the safety that may or may not have been compromised, and the board incorporates some just culture principles.

4. Put the first three steps together and use the matrix to determine the action to be taken by the board. The board has determined the color category, has determined if it's an isolated incident or multiple infractions, and has determined the type now. The box that lines up with those three variables provides the range of options the Board may impose. The prescription provides the punitive action classification, the remedial action classification, or both.
5. Assign a prescribed remedial action and/or punitive sanction. Board members should use the categorization from Table 3.
6. Identify any mitigating or aggravating factors that would decrease or increase the punishment within the prescriptive class.
7. Modify remedial action and/or punitive sanction within the class based on the mitigating or aggravating factors determined in step six.
8. Because discipline is cumulative, in step eight, the board will repeat steps one through seven with any additional grounds for disciplinary action.
9. Add all the violations together and determine the final discipline and remediation.
10. In step 10, the board's actions are assigned the appropriate Basis for Action code, reported to the National Practitioner Data Bank (NPDB) and the Exam, Licensure and Disciplinary Database (ELDD). The Ethics and Legislation Committee created a crosswalk of the grounds for action to the most relevant Basis for Action Codes to make this step easier for Boards.

The Model Board Action Guidelines were completed in 2017 and are available on the FSBPT webpage.



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Larry Ohman, PT, is Chair of the FSBPT Ethics and Legislation Committee. Larry has been a physical therapist since 1983 when he graduated with honors from the University of Montana Physical Therapy program. He is currently the owner of the private practice he started with his wife, Peggy. Larry became board certified as an orthopedic clinical specialist in 1999 and recertified in 2009. Larry has served in various roles in the regulation of physical therapy. In addition to his current role as Chair of the Ethics and Legislation Committee, he has served on the Resolutions Committee, as an item writer, and as member and chairman of the Idaho Licensure Board. Larry has also served in a variety of capacities in the Idaho Chapter of the American Physical Therapy Association. He received the J Perry Silver Award for Outstanding Service to the Idaho chapter in 2011.



David Reed, PT, is a Board Member for the North Carolina Board of Physical Therapy Examiners. He is a physical therapist with clinical and administrative experience in a variety of settings, including outpatient, acute care, inpatient rehab, home health, and skilled nursing. He recently was appointed to serve on the North Carolina Board of Physical Therapy Examiners for his second consecutive three-year term. He has served on the Federation of State Boards of Physical Therapy's Ethics and Legislation Committee for the past three years.

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