

Consensus Statement on Clinical Judgment in Health Care Settings AOTA, APTA, ASHA

Ethical Service Delivery

Decisions regarding client/patient care should be made by clinicians in accordance with their clinical judgment. Clinicians are ethically obligated to deliver services that they believe are medically necessary and in the client/patient's best interest, based upon their independent clinical reasoning and judgment as well as objective data.

Respect for the therapist's clinical judgment and expertise is critical to achieving optimum client/patient care. Overriding or ignoring clinical judgment through administrative mandates, employer pressure to meet quotas, or inappropriate productivity standards may be a violation of payer rules, may be in conflict with state licensure laws, and may even constitute fraud.

Examples of such policies or practices that are unacceptable include:

- Placing clients/patients on caseload who do not meet Medicare or other payer coverage criteria;
- Keeping clients/patients on caseload when skilled care is no longer indicated;
- Setting inappropriate administrative requirements regarding treatment frequency, intensity, or duration;
- Delivering treatment without client/patient consent;
- Counting time as treatment that is not permitted by Medicare or other payer regulations as treatment (e.g., rest time or time spent traveling to the client/patient's room);
- Inappropriately limiting the time spent on evaluations based on payment policy;
- Coding services inappropriately;
- Changing coding without the assent of the treating therapist in an effort to increase payment or conform to internal policies;
- Falsifying or changing documentation to misrepresent time spent or services delivered.

Know the Rules and Regulations

The federal government and other payers rely on therapists to use their clinical judgment to provide clients/patients with medically necessary services and to submit proper claims for payment with accurate information. It is incumbent upon practitioners to be aware of applicable policies and regulations and to understand proper implementation.

- Third-party payer rules vary significantly, but most require that services be medically necessary, skilled, and delivered by a qualified provider.
- Read the regulations and coverage policies for the payers and settings relevant to your work setting. Ignorance of the requirements is not a legal or ethical excuse for inappropriate coding, billing, or service delivery.

Evaluation and Treatment

The process of identifying, clarifying, and planning to meet client/patient needs is a critical component of the therapy process.

- Evaluations must be sufficiently comprehensive to provide information necessary to make or verify a treating diagnosis, identify client/patient goals, develop a plan of care, and guide treatment and re-evaluations as needed.
- The services provided should require skilled therapy and be effective treatment for the client/patient's condition. The amount, frequency, and duration of the services must be reasonable under accepted standards of practice.
- Guidelines and literature from each therapy profession regarding evaluation and treatment are available at each association's website.

Documentation

The client/patient's treatment record is the responsibility of the clinician who provided the care and signed the documents.

- Accurate documentation of the length of treatment

session, services delivered, and client/patient response to treatment is the responsibility of the treating clinician and may not be altered by another individual. The treating clinician, who is responsible for the accuracy of the information recorded under his or her signature, must appropriately attest to any corrections to the record. A therapist's signature indicates the accuracy of the document.

- The skilled nature of the care provided must be clearly expressed in documentation; a connection between services provided and how they addressed the client/patient's goals must be made.
- Documentation and use of CPT codes or other billing information must accurately reflect services that were provided.
- Recognizing that therapists need additional time outside of client/patient care to complete their documentation is essential and should be included in any measures of productivity.
- Activities that are appropriate and valuable for the provision of quality care (e.g., care coordination, in-servicing) should be included in measurement criteria of clinicians' performance.

You Can Uphold Your Clinical Integrity

Employer policies or practices that conflict with the autonomy of practitioners' clinical judgment can cause frustration, hardship, and moral distress. Practitioners can feel isolated in

their work setting or face negative repercussions when they question these practices. However, it is an ethical duty to support evidence-based practice to achieve effective client/patient outcomes. Use networks, associations, and groups to talk about the problems or situations you face and provide feedback to your state and national associations. AOTA, APTA, and ASHA are working together to analyze the conditions facing therapists and to provide members and others with information to ensure appropriate care based on ethical and professional standards.

Taking Action if There Is a Problem

If you are engaged in or have witnessed a billing practice that you think is suspect, consider the following steps:

- Contact the facility or corporate compliance officer or administration point of contact for compliance issues.
- Immediately stop the questionable practice.
- Contact your professional association for guidance.
- When appropriate, consider reporting information to OIG or CMS, particularly in cases in which the compliance officer has not responded appropriately.
- Seek knowledgeable legal counsel as appropriate if other efforts are not successful.

The OIG has a hotline for reporting fraud anonymously:

Phone: 800-HHS-TIPS (1-800-447-8477)

Web: <https://forms.oig.hhs.gov/hotlineoperations/>

For More Information:

AOTA More Detailed Medicare Information: <http://www.aota.org/en/Advocacy-Policy/Federal-Reg-Affairs/Pay/Medicare.aspx>

AOTA Clinical & Documentation Questions: practice@aota.org

AOTA Medicare & Reimbursement Questions: regulatory@aota.org

APTA More Detailed Medicare Information: <http://www.apta.org/Payment/Medicare/>

APTA Clinical & Documentation Questions: practice-dept@apta.org

APTA Medicare & Reimbursement Questions: advocacy@apta.org

ASHA Clinical & Documentation Questions: healthservices@asha.org

ASHA Medicare & Reimbursement Questions: reimbursement@asha.org

ASHA More Medicare Detailed Information: <http://www.asha.org/practice/reimbursement/medicare/>

ASHA Preferred Practice Patterns: <http://www.asha.org/policy/PP2004-00191.htm>

ASHA Scope of Practice: <http://www.asha.org/policy/SP2007-00283.htm>

ASHA Issues in Ethics: <http://www.asha.org/Practice/ethics/Prescription/>

Medicare Benefits Policy Manual: <http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Internet-Only-Manuals-IOMs-Items/CMS012673.html>

Medicare Fraud Reporting Information: <http://www.stopmedicarefraud.gov/>