



Consensus Statement on Clinical Judgment in Health Care Settings

Ethical Service

Delivery decisions regarding patient/client 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 that are in the patient's/client'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 optimal patient/client care. Overriding or ignoring clinical judgment through administrative mandates, employer pressure to meet quotas, or inappropriate productivity standards may violate payer rules, be in conflict with state licensure laws, and even constitute fraud. Examples of such policies or practices that are unacceptable include:

- Placing patients/clients on caseload who do not meet Medicare or other payer coverage criteria;
- Evaluating all patients at admission without establishing medical necessity or justifying the need for skilled services;
- Keeping patients/clients on caseload when skilled care is no longer indicated;
- Discharging patients prematurely or providing less care than clinically indicated, particularly if these decisions are driven by profit motive or predictive analytic tools or algorithms;
- Setting inappropriate administrative requirements regarding treatment format, frequency, intensity, or duration;
- Requiring therapy practitioners to provide at least a portion of the episode as group and/or concurrent regardless of a patient's/client's clinical presentation and needs;
- Delivering treatment without patient/client 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 patient's/client's room);
- Inappropriately limiting the time spent on evaluations and treatment 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; and
- Denying therapy based on the patient's insurer.

Know the Rules and Regulations

Federal and state governments and payers (e.g. private payers, Medicare, Medicaid), rely on therapists to use their clinical judgment to provide patients/clients 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 and not rely solely on directives from an employer.

- Third-party payer rules vary significantly, but most require that services be medically necessary, skilled, and delivered by a qualified provider. Medicare considers services to be medically necessary when they are intended to treat an illness or injury. Skilled services are those services that require the education and experience of a therapist to be performed safely and effectively. Medicare also covers skilled therapy services necessary to maintain a patient's current condition or to prevent or slow further deterioration as part of a maintenance program.
- Read the regulations and coverage policies for the payers and settings relevant to your work setting. Ignorance of the requirements is not a legal defense or ethical excuse for inappropriate coding, billing, or service delivery.

Evaluation and Treatment

The process of identifying, clarifying, and planning to meet patient/client 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 patient/client goals, develop a plan of care, and guide treatment and re-evaluations as needed.
- The services provided must require skilled therapy and be effective treatment for the patient's/client'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 patient's/client's treatment record is the responsibility of the practitioner who provided or supervised the care and signed the documents.

- Accurate documentation of the length of the treatment session, services delivered, and patient/client response to treatment is the responsibility of the treating practitioner and may not be altered by another individual. The treating practitioner, who is responsible for the accuracy of the information recorded under their 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; the clinician must make a connection between services provided and how they addressed the patient's/client's goals.

- Documentation and use of diagnosis and procedure codes or other billing information must accurately reflect the reason the patient is receiving therapy and the services that were provided.
- Recognizing that practitioners need additional time outside of patient/client 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, screenings) should be included in measurement criteria of clinicians' performance such as productivity standards.

Uphold Your Clinical Integrity

Employer policies and/or practices that conflict with the autonomy of a therapist's 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 their ethical duty to support evidence-based practice to achieve effective patient/client outcomes. Talk with your state and national associations/networks about the problems or situations you face and provide feedback to them.

AOTA, APTA, and ASHA work together to monitor and analyze the current conditions facing therapy practitioners and to provide members and others with information to ensure appropriate care based on ethical and professional standards.

Take 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 the Office of Inspector General (OIG) or the Centers for Medicare & Medicaid Services (CMS), particularly in cases where 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) | [Online form](#)

For More Information

AOTA Resources

- [AOTA Medicare information](#)
- [AOTA ethics information](#)
- [AOTA practice essentials](#)
- AOTA clinical and documentation questions: practice@aota.org
- AOTA Medicare and reimbursement questions: regulatory@aota.org

APTA Resources

- [APTA Medicare information](#)
- APTA clinical and documentation questions: practice-dept@apta.org
- APTA Medicare and reimbursement questions: advocacy@apta.org

ASHA Resources

- [ASHA Medicare coverage information](#)
- [ASHA preferred practice patterns](#)
- [ASHA speech-language pathology scope of practice](#)
- [ASHA ethics information](#)
- ASHA clinical and documentation questions: healthservices@asha.org
- ASHA Medicare and reimbursement questions: reimbursement@asha.org

Government Resources

- [Medicare Benefit Policy Manual](#)
- [Medicare fraud reporting information](#)