

HEMME APPROACH to ETHICS and LAW



INSTRUCTIONS FOR THE ANSWER SHEET

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Now that you're ready to start the course, these instructions will make it easier to complete the quiz on pages 47-51. First, there are no trick questions and the answers are clearly stated in the book. Second, the questions are not taken at random, they follow the same sequence as the text. Third, the questions cover the major points. Reading the table of contents, chapter headings, section headings, and charts will be helpful.

This course requires work. Since 4 hours of continuing education credit are given for completing the course, you are not expected to read the manual and complete the quiz in less than 4 hours.

Feel free to use the manual as you take the quiz. It may be helpful to look over the questions before reading the manual. Although passing is any score above 75% (four points per question), this should not be a problem for most people. If needed, retakes will be allowed.

Above all else, please follow these three instructions:

- ❶ **COMPLETE THE TOP OF THE ANSWER SHEET.**
- ❷ **ANSWER QUESTIONS 1 THROUGH 25.**
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When you complete the top of the answer sheet, please print legibly. The spelling of your name for certificates will be taken directly from the answer sheet. Please be patient. Quizzes are normally graded the same day they arrive. Most state boards recommend holding certificates at least four years unless otherwise instructed. Good luck with the quiz and thank you again for taking the course.

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PLEASE CIRCLE THE BEST ANSWER.						
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**HEMME APPROACH
TO ETHICS AND LAW**

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Though the author has made every effort to ensure the accuracy of the information herein, science is progressive and theories change with time. Practitioners are advised to consult appropriate information sources if they have any questions concerning the information or principles presented in this manual.

It is also the responsibility of the practitioner to determine the appropriateness of any principle or technique in terms of personal competency and scope of practice. Written medical opinions are the best way to resolve any questions concerning conditions that indicate or contraindicate soft-tissue therapy, and written legal opinions are the best way to resolve any questions concerning the law. Since the laws regarding the practice of massage therapy may vary from state to state, the standards appropriate for one state may not be appropriate for other states.

The laws and rules presented in this course are based on Florida laws (Chapters 480 and 456, Florida Statutes) and Florida Board of Massage Therapy rules (Chapter 64B7, Florida Administrative Code). Since laws and rules change and ignorance of the law is no excuse for noncompliance, practitioners are responsible for basing any decisions that relate to massage therapy on the laws and rules that are currently in effect. The penalties for committing any act set forth in Chapter 480, 456, or 64B7 may include: (1) revocation or suspension of license, (2) issuance of a reprimand or censure, (3) imposition of an administrative fine, or (4) criminal charges. You may also be required to pay investigative or legal cost.

FLORIDA STANDARDS

The Florida laws and rules concerning scope of practice, in particular, may be different from those found in other states.

Based on Chapter 480 of the Florida Statutes:

Massage: manipulation of the soft tissues of the human body with the hand, foot, arm, or elbow, whether or not such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation.

Massage therapist: a person licensed as required by this act, who administers massage for compensation.

Section 480.046(1)(I): Grounds for disciplinary action by the Board of Massage Therapy—Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know he is not competent to perform.

Based on Chapter 456 of the Florida Statutes:

Health care practitioner: includes any person licensed under chapter 480.

Section 456.072(1)(o): Grounds for discipline; penalties; enforcement—Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, that the licensee is not competent to perform.

Based on the Board of Massage Therapy Rule Chapter 64B7, Florida Administrative Code (F.A.C):

Rule 64B7-30.001(f): Misconduct and Negligence in the Practice of Massage—Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he is not competent to perform.

STANDARDS IN OTHER STATES

Massage standards in most states are similar, but seldom identical. While most of the standards in Tennessee Rule 0870-1-.19 are similar to the standards in Florida Rule Chapter 64B7, the Tennessee standard that relates to informed, voluntary, written consent before performing therapeutic same-gender breast massage—Rule 0870-1-.19(q)3—is not used in Florida. Since most states maintain the position that ignorance of the law is no excuse, always have a recent copy of the laws and rules that are used by any state you practice in or any state that has issued you a license. Some states change their massage therapy rules every three to six months.

Tennessee Rule 0870-1-.19 PROFESSIONAL ETHICAL STANDARDS.

(1) The Board requires licensees to uphold professional ethical standards that allow for the proper discharge of their responsibilities to those served, that protect the integrity of the profession, and that safeguard the interest of individual clients. To adhere to these professional ethical standards, licensees will:

- (a) Accurately inform clients, other health care practitioners, and the public of the scope and limitations of their discipline; and
- (b) Acknowledge the limitations of and contraindications for massage and bodywork and refer clients to appropriate health professionals; and
- (c) Avoid any interest, activity or influence which might be in conflict with the licensee's obligation to act in the best interests of the client or the profession; and
- (d) Comply with all applicable Tennessee statutes and regulations as well as Orders issued by the Board pursuant to its disciplinary and/or declaratory order authority; and
- (e) Conduct their business and professional activities with honesty and integrity, and respect the inherent worth of all persons; and
- (f) Consistently maintain and improve professional knowledge and competence, striving for professional excellence through regular assessment of personal and professional strengths and weaknesses and through continued education training; and
- (g) Exercise the right to refuse to treat any person or part of the body for just and reasonable cause; and

- (h) Have a sincere commitment to provide the highest quality of care to those that seek their professional services; and
- (i) Provide draping and treatment in a way that ensures the safety, comfort and privacy of the client; and
- (j) Provide treatment only where there is reasonable expectation that it will be advantageous to the client; and
- (k) Refrain, under all circumstances, from initiating or engaging in any sexual conduct, sexual activities, or sexualizing behavior involving a client, even if the client attempts to sexualize the relationship; and
- (l) Refrain, if the licensees are owners or employees of a massage therapy educational program approved by the Board pursuant to Rule 0870-2-.02, from dating or having a sexual relationship with any student while the student is enrolled, including the period of time between semesters of attendance; and
- (m) Refrain, if the licensees are owners or employees of a massage therapy educational program approved by the Board pursuant to Rule 0870-2-.02 from soliciting any student to be a client or customer for massage therapy services while the student is enrolled, including the period of time between semesters of attendance; and
- (n) Refrain from providing services when they are either physically or mentally incapable of safely doing so. The term “safely” as used in this rule means safety of the massage therapists and anyone they come in contact with during the course of professional practice; and
- (o) Refuse any gifts or benefits which are intended to influence a referral, decision or treatment that are purely for personal gain and not for the good of the client; and
- (p) Refuse to unjustly discriminate against clients or other health professionals; and
- (q) Represent their qualifications honestly, including their educational achievements and professional affiliations, and provide only those services which they are qualified and licensed to perform; and
- (r) Respect the client's boundaries with regard to privacy, disclosure, exposure, emotional expression, beliefs, the client's autonomy, and the client's reasonable expectations of professional behavior; and
- (s) Respect the client's right to refuse, modify, or terminate treatment regardless of prior consent given; and
- (t) Respect the client's right to treatment with informed and voluntary consent by obtaining and recording informed voluntary written consent of the client, or client's advocate, before performing

1. therapeutic treatments beyond the normal narrowing of the ear canal and normal narrowing of the nasal passages; and
 2. therapeutic treatments in the oropharynx; and
 3. therapeutic same-gender breast massage; and
- (u) Respect the client's right to treatment with informed and voluntary consent by obtaining and recording informed voluntary written or verbal consent of the client, or client's advocate, before providing treatment other than the treatments identified in subparagraph (1) (q) of this rule; and
- (v) Safeguard the confidentiality of all client information, unless the client provides written permission to release such information; or
1. when such information is requested during a formal investigation by representatives of the State of Tennessee or other law enforcement agencies; or
 2. when required to do so pursuant to any action in a court of law; or
 3. where required by law to report to state or federal agencies.
- (w) Not practice in an unlicensed massage establishment. A massage therapist may not be prosecuted under this rule if he/she has a written statement, signed by the establishment owner and notarized prior to the date of the therapist's employment, stating that the establishment is licensed as a massage establishment.
- (2) Violation of any provision listed in paragraph (1) is grounds for disciplinary action, as provided in Rule 0870-1-.13.

PREFACE

Laws and ethics define the personality and spirit of any health care profession. Where laws are a set of statutory principles that define what is legal or illegal, ethics are a set of moral principles that define what is good or bad. Not only are health care professionals judged by how they obey the law, but they are also judged by what ethical standards they accept and how they abide by those standards. In most cases, ethical requirements are far more demanding than legal requirements.

This course covers a wide variety of ethical and legal issues such as sexual misconduct, compensation, scientific research, contraindications, informed consent, education, and self-improvement. The history and nature of massage and the HEMME Approach to soft-tissue therapy have been included in this course as part of an effort to define *scope of practice* and explain what it means to practice massage ethically and legally.

This course attempts to make a workable connection between soft-tissue therapy and medical ethics. While many of the standards presented in this manual would also apply to other health care professions, this course tries to approach ethics from the standpoint that soft-tissue therapy is unique and a general discussion of medical ethics would be difficult to apply.

Medical ethics do not tell people how to live or what to believe in, they simply tell health care workers what standards or values can be used to distinguish between professional and unprofessional behavior. Medical ethics establish the moral principles and rules of conduct that are widely accepted by members of the same profession when interacting with patients, colleagues, other health care professionals, and the general public.

Even with knowledge of medical principles and knowledge of the patient's condition, health care practitioners have a moral responsibility and a professional duty to consider their medical ethics before they make a clinical decision. Failure to consider medical ethics can result in a loss of professional status as well as criminal or civil liability and loss of one's professional license. Perhaps no one, even Hippocrates, the father of modern medicine, captures the meaning of medical ethics better than Dr. Albert Schweitzer (1875-1965):

A man is truly ethical only when he obeys the compulsion to help all life which he is able to assist, and shrinks from injuring anything that lives.

ACKNOWLEDGMENTS

Even though many people over many years have contributed to this course, I would like to thank my old friend and mentor, Professor Ramakrishna Puligandla, for leading me through the difficult passages that began with symbolic logic and ended with Indian philosophy. Professor Puligandla is one of the special people I have known who not only teaches ethics by word, but also by deed.

The National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) also deserves special thanks for developing a single code of ethics that completely embodies all of the ethical standards that make massage therapy a worthy member of the health care profession. This code establishes standards of conduct that add to the dignity and respectability of massage therapy and lead the profession in the direction of credible and scientific thinking.

Without a strong and conscientious professional association, no health care profession will ever be recognized by other health care professions as being a qualified group of people contributing to the health and welfare of the general public.

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INTRODUCTION

From its inception, the **HEMME APPROACH** to soft-tissue therapy series has focused on developing a body of knowledge that uniquely defines the art and science of soft-tissue therapy. To accomplish this task, extensive research was conducted on a large number of different health fields, including physical medicine, osteopathy, chiropractic, physical therapy, and massage therapy. Based on research, empirical observation, and clinical experience, **HEMME APPROACH** evolved into a comprehensive collection of workable principles and techniques that broadly define the meaning of soft-tissue therapy.

For all of its research and effort, the original **HEMME APPROACH** series failed to consider one very important need: the need to explain ethics. This course will endeavor to correct this oversight by discussing professional ethics as they relate to soft-tissue therapy. Much of this discussion is built around the code of ethics published by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB).

Like science, though some principles seem to remain constant, the field of ethics changes with time. Meanings or interpretations of ethical principles reflect changes in society. Changes in politics or law can change what people view as ethically correct or incorrect. This course will attempt to follow widely accepted principles based on history and common sense.

As a starting point for medical ethics, the fundamental principle followed throughout this course was written by Hippocrates, the Greek father of medicine around 460 to 400 BC: “Whenever a doctor cannot do good, he must be kept from doing harm.” In other words, whether a doctor or therapist, the first and highest duty to perform is always:

Do the patient no harm.

In one form or another, the Hippocratic oath has guided the ethical practice of medicine throughout the world for more than 2000 years. Beyond the principle of “Do the patient no harm,” all other principles are secondary.

Nature of Ethics

Ethics is a system of moral rules, principles, or standards that govern conduct. In soft-tissue therapy, professional ethics apply to all relationships practitioners have with patients, peers, other health care professionals, and

the general public. Most professions follow a code of ethics that establishes values and guidelines for making proper decisions. These codes are normally written by professional associations such as the American Medical Association, the American Nurses' Association, or the National Certification Board for Therapeutic Massage and Bodywork. The codes followed by most health care professions are similar in nature:

- compassion and respect for human dignity
- safeguarding the patient's right to privacy and confidentiality
- protection against misinformation or misrepresentation
- protection against incompetent, unethical, or illegal practices
- ongoing continuing education to improve standards of treatment

Beyond the five general statements above, most professional codes of ethics also discuss:

- honesty in business dealings and respect for the law
- practicing within the scope of license and expertise
- advancing scientific knowledge and making this information available
- referring patients to other health care professionals when appropriate
- respecting the patient's right to intelligently accept or refuse treatment

Except for emergencies, most practitioners have the right to refuse to treat any person or part of the body for just and reasonable cause. Unfair discrimination because of sex, race, or religion is not considered a valid reason for withholding treatment and may violate state or federal laws.

Sexual Misconduct

Most professions have sanctions against sexual misconduct. Health care professionals who use their positions of trust for sexual advantage are universally condemned by most professional associations. According to most ethical standards and some state boards, practitioners are responsible for their own acts even if a patient knowingly and willfully encourages sexual misconduct. In some states, a massage therapist is prohibited from making genital contact with a patient and patients are presumed to be incapable of giving free, full, and informed consent to have sexual contact with a massage therapist during the course of treatment.

In addition to following state law, there are five basic guidelines you can follow that may protect you against allegations of sexual misconduct.

- *Do not* expose more of the patient's body than required for treatment.
- *Do not* touch more of the patient's body than required for treatment.
- *Do not* tell jokes or use humor that involves sex or sexism.
- *Do not* discuss sexual matters that are not related to treatment.
- *Do not* have sexual contact with patients outside the office.

To avoid allegations of sexual misconduct, some doctors will not examine a patient's genitalia without a witness present. Most doctors realize that even if totally unfounded, charges of sexual misconduct can be difficult to refute, very costly, and very damaging to a doctor's reputation.

Compensation

One issue that seems to divide doctors in the United States from doctors in many other parts of the world is profit. In the International Code of Medical Ethics developed and distributed after World War II, the statement is made that medical doctors should not be influenced by motives of profit. While most US doctors would agree that preserving human life is of paramount importance, a significant minority, if not majority, would boldly defend the right of medical doctors to freely compete with other professions for high incomes.

In a capitalistic society based on the concept of free enterprise, it is not surprising that supply and demand have a direct bearing on what doctors can charge for diagnosing disease, prescribing medication, or performing surgery. Profitability also seems to divide issues along professional lines. Though both claim to be acting in the best interest of society, doctors support limitations of malpractice suits, while attorneys oppose limitations. What doctors and attorneys have in common is that both are willing to oppose any government or insurance regulations that limit the amount of money their own professions can charge.

Since the issue of profit is not likely to be resolved any time soon on ethical grounds, what constitutes a fair market value for medical treatment remains largely a matter of personal conscience. In the absence of legally binding regulations, doctors, as well as most other health care professionals, are free to charge whatever the market will bear. As members of society, we

can only hope that basic fairness will somehow prevail and that quality health care will not be limited to only the rich.

Few issues in this country arouse more controversy than health care insurance. The debate over who should receive benefits and who should be charged for these benefits will probably continue for many years. What any doctor or therapist should be aware of is that billing for service rendered, but not required, is unethical and billing for any service not rendered is fraudulent. Health care fraud has become so common that experts estimate as high as one-tenth of all health care bills result directly or indirectly from fraud. In some states the estimated percentage is much higher.

While most professional associations would openly condemn the assertion that health care should be governed by the principle “buyer beware,” many of the same associations seem to feel that in matters of compensation, health care professionals should be allowed to “follow their own conscience.” The chances of someone being declared unethical for charging more than a standard rate for a legitimate service is very small.

Issues involving illegal compensation are finding their way into more state laws. Some states have enacted regulations to prevent doctors from owning companies that provide medical services and then referring patients to those companies (self-referral). Many states also have laws against taking compensation for referrals or taking compensation from drug companies for prescribing drugs manufactured by the company.

The excellent code of ethics published by the National Certification Board for Therapeutic Massage and Bodywork makes two specific references to compensation. Briefly summarized, these references state that members must avoid any interest, activity, benefit, or gift that may conflict with a practitioner’s obligation to act in the best interest of the patient or profession. Strong statements of this nature clearly show that accepting any compensation that may be at variance with the best interest of the patient or profession is unethical.

History of Massage

The exact origins of massage are unknown, although China around 2700 BC and India around 1800 BC are thought to be the first countries to mention massage in medical writings. If massage is divided into eastern and western massage, eastern massage has strong roots in acupuncture and western massage has strong roots in Swedish massage (Per Henrik Ling).

In terms of recorded history, massage is older than classical medicine and much older than osteopathy or chiropractic. Massage therapy techniques were well established by the time Hippocrates, born around 460 BC, founded modern medicine. Compared to classical medicine, which is more than 2000 years old, osteopathy and chiropractic are less than 200 years old. Osteopathy was founded by Andrew Still, who was born in 1828, and chiropractic was founded by Daniel Palmer, who was born in 1845. Clearly, massage therapy predates osteopathy and chiropractic by well over 2000 years, and possibly as much as 4000 to 5000 years.

Of all the health-care fields, osteopathy has probably contributed more to soft-tissue therapy than any other field. Most doctors of medicine favor medication and surgery over manual medicine, and most chiropractors favor spinal adjustments or spinal manipulations over soft-tissue therapy.

Whereas most osteopaths recognize the importance of treating soft-tissue impairments (somatic dysfunctions), most chiropractors are far more interested in treating *bones out of place* (subluxations) than treating the soft-tissues that surround or stabilize a joint. If you are treating soft tissue, low-velocity techniques are usually safer and more effective than high-velocity techniques. Since osteopathic physicians—unlike chiropractic physicians—have the same legal rights as medical doctors, they may also use medication or surgery when treating soft-tissue impairments.

Within the medical field, physical therapy and occupational therapy are showing much more interest in soft-tissue therapy now than in the past. Historically, physical therapy has relied more on modalities and therapeutic exercise than on soft-tissue manipulation. There now appears to be an emerging group of physical therapists trying to specialize in soft-tissue therapy and manual medicine. Though medical doctors normally show very little interest in soft-tissue therapy, most of the major work in trigger point therapy was done by medical doctors.

Even though chiropractors are starting to recognize the value of soft-tissue manipulation, historically, chiropractic treatments were based almost entirely on spinal adjustments. The first change occurred when modalities started to become popular and chiropractors divided into two schools of thought: “straights” and “mixers.”

The straights (Palmer Method of Chiropractic) continued to rely primarily on spinal adjustments, while the mixers (Carver Method of Chiropractic) treated patients with both spinal adjustments and modalities. Not only do most chiropractic physicians now use modalities, but also many are well trained in soft-tissue therapy techniques as well as nutrition.

Nature of Massage

Massage can broadly be defined as superficial manipulation of soft tissue for therapeutic purposes. Based on standard medical dictionaries and publications, the practice of massage for therapeutic purposes is called *massage therapy*, *massotherapy*, or *soft-tissue therapy*. To be consistent with other courses published by the same company, this course uses the term *soft-tissue therapy* in place of massage therapy or massotherapy.

Though the focus of massage is normally on soft-tissue manipulation, historically massage includes Swedish gymnastics. According to Taber's Cyclopedic Medical Dictionary, 16th edition, Swedish gymnastics is a system of active or passive exercise for various muscles and joints of the body. Based on Swedish massage as founded by Ling, most modern forms of massage include passive mobilization and range-of-motion stretching.

Unlike spinal manipulation that focuses on reducing subluxation or adjusting vertebrae, soft-tissue therapy focuses on correcting soft-tissue impairments. By definition, soft-tissue impairments are soft-tissue lesions or defects that cause disability or loss of function. Examples of soft-tissue impairments include trigger points, spasms, contractures, or adhesions.

Where spinal manipulations are normally accomplished by using high-velocity thrusting movements applied to vertebrae, soft-tissue manipulations are normally accomplished by using low-velocity pushing or pulling movements applied to muscle tissue, nerve tissue, epithelial tissue, or soft connective tissue such as tendons, ligaments, or fascia.

In addition to soft-tissue manipulation, many descriptions of massage therapy include use of modalities, lubricants, and electrical devices such as vibrators. The most common modalities are thermotherapy (application of heat) and cryotherapy (application of cold). Lubricants can be moist liquids (oils), or dry solids (talcum powder) with various chemical properties that stimulate tissues or produce aromas.

Mechanical vibrators stimulate and sedate muscles by combining oscillation (back-and-forth movement) with percussion (up and down movement). Practitioners should never attempt to use any modality, lubrication, or electrical device without levels of training and competency sufficient to protect the public and comply with ethical and legal standards.

The basic goal of soft-tissue therapy is to restore normal function and improve quality of life. These goals can be accomplished by superficially manipulating soft tissues of the body, with or without modalities or electrical devices.

There are seven specific goals in soft-tissue therapy:

- neutralize trigger points
- facilitate or inhibit muscles
- lengthen restricted tissues
- improve circulation
- control tissue metabolism
- produce psychological relaxation
- improve coordination and mobility

By accomplishing these specific goals, more general goals such as reducing pain, spasm, and edema, strengthening weak muscles, and increasing range of motion can be accomplished. Although slightly more psychological than physical, one of the most significant goals of soft-tissue therapy is being able to produce almost total relaxation of the body without drugs, physical activity, biofeedback, hypnosis, or meditation.

Even though soft-tissue therapy is not a miracle cure, it can produce dramatic results when properly applied to soft-tissue impairments. Since soft-tissue therapy is non-invasive, the risk of adverse side effects is minimal if properly trained practitioners exercise professional judgment when treating patients.

One mark of professional judgment is being able to recognize conditions that contraindicate soft-tissue therapy and then referring the patient to another health care professional. This policy can also help to reduce civil and criminal liability because of laws and ethics relating to scope of practice.

Soft-tissue therapy has evolved into its present state of art and science because of public demand from satisfied patients who were not helped by other forms of therapy. Many of these patients were told to live with their pain or that their pain is purely psychogenic.

The future of soft-tissue therapy depends on how well practitioners from all health care fields honor the public's trust and represent soft-tissue therapy ethically and scientifically in terms of its benefits and limitations. This also implies cooperating with other health care professionals in the interest of public good. Since no single profession owns or practices soft-tissue therapy, only with scientific research, mutual respect, and candid sharing of information can the field of soft-tissue therapy hope to advance.

LAWS

The laws relating to soft-tissue therapy do not always reflect the highest ethical standards possible. Laws are different from one location to another, and even where communities share the same law, its interpretation, enforcement, and penalties are often different. The codes of ethics followed by most professional associations represent a higher standard of morality than most local, state, or federal laws.

This reality does not relieve any practitioner from being familiar with laws, statutes, or codes that apply to soft-tissue therapy. Most courts are quick to point out that ignorance of the law is no excuse, even though the exact meaning or constitutionality of a law may take years for the court to decide. Penalties for breaking a law are normally more specific than for violating a code of ethics.

Any difficulty finding or understanding the local laws that apply to soft-tissue therapy is a good reason for seeking legal advice. Most professional associations consider it a violation of ethics to commit any crime relating to professional practice, morality, or business activities.

A common question people sometimes ask is: "Why regulate soft-tissue therapy at all?" The only valid reason for regulating any profession is to protect the public from incompetent or unethical practitioners. Even though the risk of causing serious injury or death because of practicing soft-tissue therapy is minimal, the danger does exist.

Accidents related to at least one contraindication, that of vertebral insufficiency, can result in paralysis or death. Recognizing a serious pathologic condition that contraindicates soft-tissue therapy and then failing to refer the patient to another health care professional can also result in serious injury or death. The need to protect the public from potentially dangerous therapy or unethical treatment partially explains why many states are expanding regulation of soft-tissue therapy.

What laws should not do is create economic monopolies for people within a given profession when less restrictive regulations would benefit the public. Protection of egos or personal income are not valid reasons to regulate any profession. By limiting competition, monopolistic practices increase cost and make the affected services less available to the public. When two professions compete for the same patients, competition also encourages higher standards, since any profession that offers similar or better care at less cost is likely to dominate the market.

Even though unethical conduct may not be illegal, ethical behavior helps any profession establish credibility and respectability. If the ethics of any profession deviates sharply from what the public is willing to accept, legal sanctions are normally created to correct the situation. Since most professional associations prefer self-regulation over government regulation, it is commonly in the best interest of any profession to encourage ethical conduct.

Unethical conduct may be admissible in civil or criminal court if one party or the other is trying to show unprofessional or incompetent behavior. Malpractice law suits frequently charge the defendant with professional misconduct and lack of skill. Since most professional associations have a code of ethics that covers professional behavior and competency, ethical violations can sometimes be used to show that other members of the same profession view the defendant's behavior as unprofessional or incompetent. In a criminal trial, unethical conduct can be used to discredit a witness.

State Laws

Even if state laws are not the same from one state to another, certain basic provisions may be similar. The following is a list of basic provisions that might be found under any state law that governs soft-tissue therapy.

Title: soft-tissue therapy practice act.

Purpose: protect the public from a potentially dangerous therapy without unreasonably affecting the competitive market.

Definition: soft-tissue therapy is superficial manipulation of soft-tissue for therapeutic purposes, with or without the aid of modalities, electrical devices, or chemical preparations.

Qualifications: no one will practice soft-tissue therapy without successfully completing a state-approved course and examination, and no one will renew a license without completing state-approved continuing-education requirements.

Penalty: It shall be unlawful for anyone to practice soft-tissue therapy for compensation without a valid state license.

KNOWLEDGE

Soft-tissue therapy research has not progressed as rapidly as research involving medication or surgery. Profitability, liability, academic interest, and government regulations have all strongly supported the testing of drugs and surgical procedures. Research is also easier in these areas because experiments and controlled studies are easier to reproduce and validate. Techniques in soft-tissue therapy are seldom exactly the same for two different patients, and highly individual factors such as tolerance for pain, motivation, attitude, and perseverance can alter the outcomes.

Unlike medication or surgery where indications of success or failure can often be measured objectively by laboratory testing, success or failure in soft-tissue therapy is often measured subjectively by positive or negative responses from the patient. Where medication and surgery can sometimes make the difference between life or death, which is easy to measure, soft-tissue therapy is more likely to affect quality of life, which is more difficult to measure.

In terms of controlled clinical trials, even surgery cannot easily duplicate the objectivity of double-blind experiments that are routinely used in drug testing. In a double-blind experiment, neither patient nor physician knows which of two treatments is being used. One group (experimental group) receives the medication being tested and the other group (control group) receives a compound that is similar in appearance but chemically inert (placebo). Theoretically, double-blind experiments eliminate the possibility of bias. Double-blind experiments are not common in testing surgical procedures or manual therapy techniques, since the physician or therapist normally knows which technique is being tested and which technique is being used as a placebo.

Though much of what we know about soft-tissue therapy is based on clinical experience and anecdotal (subjective) evidence, this is not to say that soft-tissue therapy cannot be validated. In the first place, laboratory findings cannot express how a patient feels physically or psychologically. It would be foolish to believe that patients cannot be in severe pain simply because technology cannot identify the exact origin or reason for the pain.

In the second place, even the physical sciences can be highly subjective. Einstein's concept of modern physics was largely refuted by the entire scientific community until changes in science and technology made it possible for other people to understand and validate his theories. Changes in our ability to measure physiologic phenomena may someday validate soft-

tissue techniques that are now accepted primarily because of clinical experience and positive feedback from patients.

As valuable as medical research is, not all studies are equally valid, and one study frequently contradicts another study. Three of the main factors that invalidate research studies are

- blind allegiance to old ideas
- resistance to new ideas
- drawing the wrong conclusions

Blind allegiance to old ideas and resistance to new ideas are clearly part of medical history. When William Harvey discovered how blood circulated through the body, he was quickly attacked by some of his peers and avoided by others. Many of the greatest breakthroughs in medicine were first regarded as either ridiculous or useless before they received general acceptance and recognition.

Even if the basic facts are correct, many scientific studies draw the wrong conclusions. Either they fail to recognize that more than one cause can produce the same effect or they mistakenly identify the relationship between two events as cause and effect when there is no causal relationship. Failure to realize that more than one cause can produce the same pain is one reason why soft-tissue therapy fails. Even though shoulder pain may be caused by an injury to the shoulder, it can also be caused by trigger points in the neck (normally in the scalene group) that refer pain to the shoulder.

An example of confusing the relationship between cause and effect is claiming that gay males cause AIDS. Even though AIDS is more common among gay males in this country than among other groups, AIDS is not caused by sexual preference, it is caused by the human immunodeficiency virus (HIV). In Africa, AIDS is rampant among heterosexuals and the number of males and females with AIDS is about equal.

Statistics are also a common source of errors in research studies. The sample group may be too small for statistical significance, the formulas used may be wrong, or calculations may be wrong. If the sample groups were incorrectly selected, the data cannot be used to draw valid conclusions. Many studies do not run long enough to produce valid statistics, and personal bias can enter into the way statistics are calculated or presented. Since most statistics are based on probability, their value is limited. Even though some groups are statistically at higher risk for HIV infection than

other groups, many members of the high-risk group will not become HIV-infected, while some members of a low-risk group will.

While there is no perfect defense against invalid studies, one basic approach is to ask two questions: (1) "Is the data correct?" and (2) "If the data is correct, so what?" If the data is not correct or the data does not prove the conclusion, the research is not valid.

Three other methods commonly used to evade the truth are (1) appeal to authority, (2) appeal to ignorance, and (3) special pleading. Even though an expert in certain fields may be more qualified to make claims than someone with less training, the truth or falsity of a claim depends on the evidence available to support the claim, not on the person making the claim. In spite of their training and expertise, experts can be wrong. Rather than judge the source, evaluate the quality of evidence supporting the claim.

Appeal to ignorance is a proposition that something is true because no one can prove it to be false. Ignorance does not prove or disprove a proposition. For a proposition to be accepted as true, there should be good and sufficient evidence showing the proposition is true. "Miracle cures" frequently use an appeal to ignorance. You cannot ethically claim that something cures low back pain simply because no one else can prove otherwise. If someone claims to have a cure for low back pain, there must be good and sufficient evidence to support the claim.

Special pleading is a convenient way of trying to prove a point by ignoring negative information. Referring back to miracle cures, a person using special pleading would cite all the cases where the miracle cure seemed to eliminate low back pain, but ignore all the cases where the miracle cure had no effect. Courtrooms defend against special pleading by asking for the "whole truth," not just a small portion of the truth.

Scientific Method

Three approaches that add credibility to soft-tissue therapy are (1) following the scientific method, (2) documenting principles that explain why soft-tissue therapy works, and (3) sharing information.

The purpose of the scientific method is to make logical connections between facts and theories. The normal sequence for scientific investigation is (1) identify the problem, (2) observe relevant facts, (3) formulate theories, (4) evaluate theories, and (5) draw conclusions or make decisions.

Modern medicine is based on the belief that diseases are caused by some type of entity and that careful observation can discover the exact

nature of the entity. In other words, a microorganism such as the human immunodeficiency virus (cause) produces disease such as AIDS (effect).

Even though the cause-and-effect reasoning does not work perfectly in every case, it is still the best method we have for drawing conclusions based on the observation of facts. One place cause and effect breaks down is where doctors have learned to treat a disease without being able to identify the exact cause.

Also called "PCP," pneumocystic carinni pneumonia is an AIDS-related illness that is thought to be caused by either a protozoan or a yeastlike fungus. Doctors can treat PCP even though the exact cause is not known. Similar situations occur in soft-tissue therapy, where soft-tissue impairments can be treated effectively by using a certain method even if the exact cause for the impairment remains unknown.

The **HEMME APPROACH** has modified the classical scientific method to make it more appropriate for soft-tissue therapy.

HEMME APPROACH SCIENTIFIC METHOD

1. Identify problem presented by the patient.
2. Determine whether therapy is indicated or contraindicated.
 - A. Discontinue if contraindicated.
 - B. Continue if indicated.
3. Investigate problem and form preliminary theories.
4. Collect additional information to verify or deny theories.
5. Begin therapy based on the best possible theories.
6. Use feedback from the patient to see if therapy is successful.
7. Make a decision.
 - A. Complete program if therapy is successful.
 - B. Repeat earlier steps if therapy is not successful.
 - C. Discontinue therapy for valid reason.

Where many approaches present soft-tissue therapy as a rigid series of cookbook-like steps, **HEMME APPROACH** goes beyond basic routines and presents soft-tissue therapy as a problem solving process. Even though it uses the scientific method, **HEMME APPROACH** recognizes that all patients are unique and each problem is somewhat different. Any approach that fails to include flexibility and freedom of choice is not going to be equally effective in all cases. The **HEMME APPROACH** series explains how **HEMME APPROACH** adds flexibility and freedom of choice to the scientific method.

Documenting Principles

The second part of adding credibility to soft-tissue therapy is documenting the principles that explain why soft-tissue therapy works. It is not enough to say that soft-tissue therapy works, there should be valid principles or reasons that explain why it works. After years of extensive research and clinical experience, **HEMME APPROACH** has identified twelve basic principles that justify or explain practically all techniques used in soft-tissue therapy. All of these principles are widely accepted by the scientific and medical community as being valid, and most are listed in current medical dictionaries and textbooks. All can be scientifically proven.

Twelve Principles of Soft-Tissue Therapy

- (1) All-or-none law: The weakest stimulus capable of producing a response causes skeletal muscle *fibers* to contract maximally.
- (2) Beevor's axiom: The brain knows nothing of individual muscles, but thinks only in terms of movement.
- (3) Creep: Deformation of viscoelastic materials when exposed to a slow, constant, low-level force for long periods of time.
- (4) Facilitation-Inhibition:
 - A. When a nerve impulse passes once through a set of neurons to the exclusion of other neurons, it usually takes the same path in the future and resistance to the impulse becomes less.
 - B. As opposites, facilitation encourages a process and inhibition restrains a process (e.g., moderate tension quickly applied to a muscle facilitates contraction; heavy tension slowly applied to a tendon inhibits contraction).
- (5) Head's law: If painful stimulus is applied to areas of low sensibility in close central connection with areas of high sensibility, the pain may be felt where sensibility is high.

- (6) Hilton's law: The nerve trunk that supplies a joint also supplies the muscles that move the joint and the skin that covers the insertions of the muscles that move the joint.
- (7) Hysteresis: Energy loss in viscoelastic materials subjected to stress or to cycles of loading and unloading.
- (8) Meltzer's law (Contrary Innervation): All living functions are continually controlled by two opposing forces (e.g., inhibition and facilitation).
- (9) Sherrington's laws:
 - A. Every posterior spinal root nerve supplies one particular region on the skin, though fibers from segments above and below can invade this region.
 - B. Reciprocal Inhibition: when the agonist receives an impulse to contract, the antagonist relaxes.
 - C. Irradiation: nerve impulses spread from a common center and disperse beyond the normal path of conduction. Dispersion tends to increase as the intensity of stimulus becomes greater.
- (10) Sherrington's reflex: A muscle contracts in response to passive longitudinal stretch (also called *stretch reflex* or *myotatic reflex*).
- (11) Thixotropy: Certain gels liquefy when agitated and revert to gel upon standing.
- (12) Wolff's law: Bone and collagen fibers develop a structure most suited to resist the forces acting upon them.

Sharing Information

The issue of sharing information has always been controversial in soft-tissue therapy, where many competent practitioners have a tendency not to document or disseminate information. Medical doctors probably lead the field in publishing research studies, though nurses and physical therapists also publish a large volume of work. According to the American Medical Association's principles of ethics, it is unethical for any physician not to advance scientific knowledge or to fail to make relevant information available to patients, colleagues, and the public.

The three worst reasons for not sharing information are (1) personal gain because of the profitability in selling "secret" information, (2) avoidance of scientific scrutiny or criticism that may arise if principles and techniques are openly presented to the public, (3) an obvious attempt to misrepresent the quality or quantity of the information available. Other less serious reasons for not sharing information are lack of information, lack of confidence, or lack of interest. In any event, no health care profession can grow in stature unless its membership openly exchanges information and works to advance scientific knowledge.

When information is shared, an effort should be made to use conventional medical terminology. Creating new words when similar words already exist confuses people and discredits the information. Even so, since soft-tissue therapy is an emerging field, this suggestion is not always easy to follow. Even medical doctors have problems agreeing on what certain terms mean or what signs or symptoms characterize certain syndromes.

Even though fibromyalgia has been recognized clinically for many years, its exact cause is still unknown and most doctors cannot agree on exactly what constitutes primary fibromyalgia syndrome.

This problem becomes even more difficult when trying to describe soft-tissue impairments. Various medical terms that describe conditions with characteristics similar to soft-tissue impairments include:

- Fibrositis: inflammation of fibrous tissue.
- Myositis: inflammation of voluntary muscles.
- Fibromyositis: inflammation of fibromuscular tissue.
- Myofibrositis: inflammation of the perimysium.
- Myofibrosis: replacement of muscle tissue by fibrous tissue.
- Muscle rheumatism: muscle ache, local spasm, and stiffness.

HEMME APPROACH

Soft-Tissue Therapy

The **HEMME APPROACH** can be used as a standard for defining soft-tissue therapy because it incorporates all of the basic elements found in therapeutic massage. The **HEMME APPROACH** is a method of soft-tissue therapy based on the acronym **HEMME**. The acronym stands for:

HEMME	
H	HISTORY
E	EVALUATION
M	MODALITIES
M	MANIPULATION
E	EXERCISE

The first two steps in **HEMME APPROACH**, **HISTORY** and **EVALUATION**, define the problem, while the last three steps, **MODALITIES**, **MANIPULATION**, and **EXERCISE**, provide a solution. Even though diagnosing a disease is not part of soft-tissue therapy, a therapist is responsible for protecting the patient by determining if soft-tissue therapy is indicated or contraindicated.

The right to diagnose diseases is normally reserved for doctors such as medical, osteopathic, or chiropractic physicians. Though nurses may have a limited right to diagnose and a soft-tissue therapist may have a legal and moral obligation to take a medical history and evaluate the patient for indications or contraindications, neither profession would normally have the right to diagnose disease, prescribe medication, or perform surgery.

If soft-tissue therapy is indicated, a prescription may or may not be required, depending on local regulations. Since soft-tissue therapy is seldom used for treating acute injuries or serious pathologic conditions, most states grant a licensed massage therapist the legal right to administer soft-tissue therapy without a prescription. This same right may not be granted to other forms of therapy where the risk of injury or death is much higher. Not only is soft-tissue therapy conservative and non-invasive, the devices it uses are relatively safe compared to the electrical devices that other forms of therapy use to produce deep heat. Malpractice insurance for massage therapy is often lower than for any other health care profession.

Contraindications

The patient's physician is always the ultimate authority when trying to resolve questions relating to indications or contraindications. If possible contraindications appear, a therapist should discontinue treatment and wait for the patient's doctor to make the final decision. Doctors have the right to prescribe soft-tissue therapy even if contraindications seem to exist. Unless a therapist is working directly under a doctor's supervision, prescriptions to treat patients with possible contraindications should always be in writing.

Soft-tissue therapy is usually contraindicated during the acute stage of an injury if inflammation or subcutaneous bleeding is present. Inflammation is indicated by redness, swelling, heat, pain, and loss of use. Even passive mobilization can be harmful during the acute stage of an injury. The basic conditions listed below would normally contraindicate soft-tissue therapy:

- Acute cardiac or kidney disease
- Acute inflammation or infection
- Calcification of soft tissue
- Circulatory failure
- Communicable disease when adequate protection is not available
- Complete insensitivity to pain or touch
- Complete rupture or tearing away (avulsion) of soft tissue
- Conditions that will not respond to soft-tissue therapy
- Constant and progressive pain or sharp stabbing pain
- Degenerative bone or soft-tissue disease
- Dislocations or subluxations
- Fever or chills
- Herniation or hemorrhage of any tissue
- Inability to give informed consent
- Loss of bowel or bladder control
- Nonunion fractures
- Numbness or weakness without pain
- Open wounds such as lesions, lacerations, or rashes
- Painful, hot, or swollen joints
- Severe burns
- Unexplained weakness, numbness, or paresthesia
- Vertebrobasilar (artery) insufficiency

Modalities

The basic modalities used in **HEMME APPROACH** are thermotherapy, cryotherapy, and vibration. Heat can be applied by many different methods, although moist heat is normally considered more effective than dry heat. Cryotherapy can also be applied by many different methods, although ice is the basic component for most applications.

Whether modalities are needed will depend on the condition being treated and characteristics of the patient. Heat increases tissue extensibility and facilitates stretching, while cold combined with rest, elevation, and compression helps to control edema. Depending on the circumstances, heat and cold are both capable of reducing pain and controlling spasm.

Vibration can be used to stimulate or sedate muscle, depending on the intensity and duration of treatment. Strong vibration for short periods of time tends to stimulate, whereas light vibration for longer periods of time tends to sedate. Like thermotherapy and cryotherapy, vibration is a supplement, but not a substitute, for soft-tissue manipulation. When used alone, modalities do not correct soft-tissue impairments.

Manipulation

HEMME APPROACH uses four methods of manipulation:

- trigger point therapy (neutralize trigger points)
- neuromuscular therapy (facilitate or inhibit muscles)
- connective tissue therapy (lengthen restricted tissue)
- range-of-motion stretching (improve mobility)

These four methods of manipulation were selected for two reasons. First, since trigger points are widely accepted by most doctors and clinicians as a major cause of pain and spasm, at least one form of manipulation is needed to treat and neutralize trigger points. Second, since there are four types of soft tissue in the human body—nerve tissue, muscle tissue, connective tissue, and epithelial tissue—any approach that fails to treat all four tissue types would be incomplete.

Based on these two reasons, four types of manipulation were selected. Trigger point therapy treats trigger points, neuromuscular therapy treats nerve and muscle tissue, and connective tissue therapy treats connective and

epithelial tissue. Range-of-motion stretching is unique in that it treats all four tissue types and trigger points.

Though **HEMME APPROACH** is designed to be more of a flexible model than a rigid series of steps, the basic sequence for treating most patients would be trigger point therapy, neuromuscular therapy, connective tissue therapy, and range-of-motion stretching. Trigger point therapy reduces pain by neutralizing trigger points, neuromuscular therapy reduces pain by reducing spasm, connective tissue therapy improves range-of-motion by treating adhesions or contractures, and range-of-motion stretching helps to restore overall flexibility and mobility.

Exercise

Historically, the relationship between exercise and massage predates Swedish gymnastics. Herodicus, one of the teachers of Hippocrates, has been given credit for making exercise and massage part of Greek medicine. Herodicus believed that exercise and massage together increase longevity. The Romans were among the first to incorporate modalities with exercise and massage. During the fifth century AD, the Roman physician Caelius Aurelianus recommended that intense applications of heat and sun bathing be used in addition to exercise and massage.

Though Swedish gymnastics and therapeutic exercise are normally considered part of massage by medical definition, soft-tissue therapy practitioners normally focus more on modalities and soft-tissue manipulation during a treatment session than on therapeutic exercise. Like soft-tissue manipulation, supervising exercise is not limited to any one profession. Coaches, athletic trainers, personal trainers, physical therapists, occupational therapists, exercise physiologists, and aerobics instructors all supervise exercise programs.

Coaches, athletic trainers, and personal trainers are most likely to supervise exercise programs that involve sports or physical fitness. Exercise prescriptions issued by a doctor are normally administered by either a physical or occupational therapist. Cardiac rehabilitation programs involving exercise are frequently administered by an exercise physiologist. Aerobics instructors normally run general fitness or diet programs.

The regulations involving certification and the right to supervise an exercise program vary from state to state. Despite efforts by various groups or associations to limit or control who is qualified or not qualified to supervise an exercise program, there appears to be no national standard.

Though certification should not be used to create economic monopolies, it seems reasonable that any person supervising an exercise program should have specialized training in exercise physiology and sports-related injuries.

What the **HEMME APPROACH** recommends regarding exercise is that all practitioners be familiar with principles of therapeutic exercise and all patients be encouraged to exercise at home as part of a self-therapy program. Since most patients do not require direct supervision during exercise, taking an active part in their own therapy increases self-sufficiency and decreases long-term dependence on passive therapy. Most professions consider it unethical to encourage long-term dependency when patients have the ability to become partially or fully independent.

Understanding the nature of exercise and movement can also make it easier to explain how injuries occur, why injuries produce certain signs or symptoms, and how injuries can be prevented. The four 12-hour courses in the **HEMME APPROACH** therapy series carefully explain how understanding the principles of exercise and movement can make it easier to treat or prevent soft-tissue injuries related to exercise or strenuous activity. The 12-hour **HEMME APPROACH** to Pain course also covers muscle soreness related to exercise. (See bibliography for a listing of **HEMME APPROACH** courses.)

Since sports massage has now become one of the most active fields in massage therapy, the need to understand the principles of exercise has become even greater. Both amateur and professional athletes are now using soft-tissue therapy as a drug-free way to improve performance. Athletic massage is normally done to relieve pain, reduce spasm, lengthen restricted tissues, and improve lymphatic or blood circulation.

Another reason for discussing therapeutic exercise is helping a soft-tissue therapist understand that personal fitness and good use of body mechanics play an important role in maintaining professional competence. Soft-tissue therapy is physically demanding and any therapist who is physically unfit in terms of strength, endurance, or flexibility may not be able to maintain a practice.

Understanding the proper use of body mechanics is also important. More than one therapist has been seriously injured because of poor body mechanics while moving or manipulating a patient, and improper use of the hands can make a therapist extremely vulnerable to repetitive stress or overuse injuries. An injured therapist is not in a good position to help anyone else.

AIDS

AIDS is one of the most challenging problems facing the health care profession. AIDS (Acquired Immune Deficiency Syndrome) is an immune-system disorder caused by HIV (Human Immunodeficiency Virus). A person is diagnosed with AIDS after (1) becoming HIV-infected and (2) presenting signs or symptoms characteristic of AIDS such as Kaposi's sarcoma or pneumocystis carinii pneumonia. Even though many health care workers are reluctant to work with HIV-infected patients for understandable reasons, they cannot avoid the challenge without violating the ethical standards that bind most health care professions together.

At present, there is no cure for AIDS and education is the only weapon we have to combat the spread of AIDS. As many as 1.3 million people in the United States could be HIV-infected and most will develop full-blown AIDS within eight to eleven years. People with HIV infections may show no visible signs or symptoms of the virus for many years after the onset of infection, and even HIV testing is not absolute proof that a person is not HIV-infected.

Because of the "window" between inoculation with HIV and seroconversion, an HIV-infected person can test HIV negative if the antibodies measured by standard testing have not had time to form. This window period averages between one and three months, but it can be longer than six months.

Though personal ethics cannot be legislated by state or federal law, health care professionals have a responsibility to the public because of their chosen professions. With all the knowledge available on preventing HIV transmission, the public can be served in a meaningful and compassionate way without causing excessive risk to those people who dedicate their lives to helping others. The correct role for health care professionals is threefold: (1) exercise extreme caution when dealing with HIV, (2) carry out duties that may include people with HIV, and (3) continue the fight against AIDS by learning and sharing up-to-date information regarding HIV.

The two basic problems facing health care professionals are (1) how practitioners can protect themselves from HIV-infected patients and (2) how patients can be protected from HIV-infected practitioners. Even though HIV testing is fallible, without HIV testing there is no positive way to know if a person is HIV-infected. This means that some patients and some practitioners are likely to be HIV-infected without knowing of the infection.

For the protection of patients and practitioners, universal precautions should always be followed whenever there is possible risk of HIV transmission. Not only is this policy medically sound, it also avoids discrimination by treating all people or groups equally. Regardless of risk factors, members of any race, religion, or lifestyle are capable of becoming HIV-infected. No one appears to be completely immune to AIDS.

Practitioners

The risk of health care workers becoming HIV-infected because of work-related activities is very low if universal precautions against HIV infection are followed.

SIX BASIC UNIVERSAL PRECAUTIONS

- ① Protective barriers such as gloves, masks, protective face shields or eyeglasses, and aprons or gowns should always be worn to protect against contamination from infectious body fluids. Materials such as latex and vinyl make effective barriers against HIV.
- ② Body parts and mucous membranes should be washed and disinfected immediately if thought to be contaminated by infectious body fluids.
- ③ Needles and other sharp instruments should be handled carefully. Needles should not be recapped or manipulated by hand. After use, needles should be placed in puncture-resistant containers for disposal.
- ④ Ventilation devices should be used in place of mouth-to-mouth resuscitation. Though saliva is thought to be a low-risk body fluid, contamination by infected blood is always possible.
- ⑤ Health care workers with weeping lesions or breaks in the skin should avoid making direct contact with patients until the openings are healed.
- ⑥ Because of risks to the fetus, pregnant women should be extremely careful to avoid contamination and be especially careful to follow universal precautions.

Patients

First and foremost, practitioners can protect patients by following universal precautions. Barriers that prevent transmission from patients to practitioners will also prevent transmission from practitioner to patient. Since AIDS patients, by definition, have a defective immune system, the risk of practitioners transmitting disease to an AIDS patient is normally greater than the risk of an AIDS patient transmitting disease to practitioners. Universal precautions also protect against other blood-borne pathogens such as viral hepatitis type B, which is much more contagious than HIV.

Though testing is the only positive way to determine if a person is HIV-infected, the presence of some conditions make HIV testing or medical advice highly recommended. These conditions include:

- Persistent low-grade fever
- Chronic fatigue
- Lymph glands that remain swollen for several weeks
- Night sweats that occur without fever
- Unexplained weight loss of more than ten pounds
- Persistent diarrhea
- Skin rashes that remain constant or that spread
- Lesions of the mouth
- Continuous genital infections
- Upper respiratory problems

Even though ethics cannot be legislated, health care workers and the general public should be aware that federal law protects HIV-infected patients against discrimination. Though secondary to ethical standards that demand humane and caring treatment for any disease victim, the Federal Fair Housing Act and other laws ban discrimination against all people with disabilities, including people with HIV infections. Violating the rights of people with HIV infections can result in severe penalties.

While health care workers have a right to protect themselves, HIV patients are normally entitled to confidentiality. Only under special conditions can records, test results, or information about a patient be released without the patient's consent. Health care workers may have a right to this information if it is needed to properly treat the patient. Legal advice is strongly recommended regarding the exceptions to confidentiality.

COMMUNICATION

One of the major complaints against modern medicine is that doctors fail to communicate with patients. According to one study, as many as sixty-five percent of all patients criticize the way doctors communicate with them. Chiropractors normally get higher marks in communication skills than do medical doctors. Listening to patients is the first part of communication and responding to patients is the second part. When communications break down between practitioners and patients, failure to listen is more likely to be the problem than failure to respond.

During the first few minutes of contact between practitioner and patient, both parties form impressions that are difficult to change. Practitioners will evaluate the patient's honesty, intelligence, personality, and motivation, while patients evaluate the practitioner's competency, attitude, demeanor, and communication skills. Negative opinions formed by either party can adversely affect the entire course of therapy.

Rapport implies trust, confidence, and cooperation. The best ways to establish rapport during the initial stages of contact are (1) present a professional appearance, (2) help the patient relax by asking non-threatening questions, (3) be agreeable, (4) smile and use appropriate humor, and (5) maintain eye contact with the patient.

Since the importance of eye contact cannot be over emphasized, the following test for eye contact is highly recommended. After speaking to a patient for several minutes, look away and try to recall the patient's eye color. Failure to do so may indicate a lack of eye contact.

Most patients should be allowed to sit or lie down unless other positions are more comfortable. If the patient is nervous and prone to movement, practitioners should seat the patient and remain standing themselves. This limits the patient's mobility and helps to establish authority. Some patients respond well to shaking hands or a light touch on the shoulder, while others prefer distance. Watching the way patients conduct themselves will sometimes suggest what behaviors are acceptable. The object is not to treat patients the way you would like to be treated, but to treat patients the way they would like to be treated.

A therapist should be able to empathize with patients but have the ego strength to make difficult decisions when needed. Two attitudes that are strongly recommended are sincerity and caring. Other concerns tend to become secondary if patients believe that practitioners truly care about helping

them. As someone once said, "Patients don't care how much you know until they know how much you care."

When conducting an interview, separate the patient from the problem and focus on the problem. Medical histories are taken to evaluate the patient's condition, not the patient. The personality or lifestyle of the patient should not be allowed to bias the interview. It is customary to record the results of any medical history interview in writing or by tape recording. Not only are these records needed to monitor the patient's progress, other reasons for keeping permanent medical records include (1) state laws, (2) insurance claims, and (3) the possibility of litigation.

Most of all, a therapist should work to develop good communication skills by listening to what the patient has to say. This means not interrupting the patient any more than necessary and not doing other things while the patient is talking. One of the worst mistakes practitioners make is formulating a response before the patient has time to finish the question. The best policy is wait for the patient to finish a statement and then respond. Letting the patient finish speaking and then counting to at least five before responding will help many practitioners become better communicators.

Informed Consent

The right to informed consent is one particular reason for good communication skills that health care workers sometimes overlook. Informed consent refers to the right of a patient to be informed about the nature and possible consequence of a test or treatment, thus allowing patients to make intelligent decisions concerning their willingness to be tested or treated.

Persons being tested for HIV are entitled to be informed about the nature of the HIV test and the consequences of being tested. Informed consent should include the meaning of the test and provisions for pretest and posttest counseling. Applicants must be told that testing is voluntary and consent for testing can be withdrawn at any time.

A similar principle applies to soft-tissue therapy. Patients must be informed about the nature of the therapy and the consequence of being treated. They have the right to accept or deny treatment at any time. Where alternatives are possible, patients should be informed of possible options. The overall goal is to provide patients with enough information to intelligently decide if the expected benefits of therapy outweigh possible negative consequences.

The code of ethics written by the National Certification Board for Therapeutic Massage and Bodywork clearly states that a patient has the right to informed and voluntary consent. Consent can be in written or oral form and the patient has the right to refuse, modify, or terminate treatment at any time regardless of prior consent. Most other professional health care associations have similar statements or policies. In some states, patients have a right to their medical records at any time, even if payment has not been made for services.

Since informed consent is such an important principle, instructions given to the patient are more like negotiated agreements than unilateral directives. Agreements with a patient can sometimes be negotiated by following the acronym *SOLAC*.

Situation: explain the problem in clear and simple terms.

Objectives: explain what therapy should accomplish.

Logic: explain why therapy should be effective.

Alternatives: explain negative consequences and possible options.

Conclusion: allow the patient to decide whether to be treated.

Unlike normal negotiations, the patient has the final say. Only in rare situations would a health care worker be allowed to deviate from implied consent, and these cases normally involve critical care.

Scope of Practice

Part of informed consent is making patients fully aware of what professional services you can legally and ethically provide. Many of these services are defined by the scope of a person's license. Practitioners should freely disclose education, training, and professional associations if requested by the patients. Some states consider misrepresenting your license or scope of practice as grounds for license revocation or criminal fraud. Most professional associations consider any form of communication that misrepresents or overstates qualifications or scope of license unethical, unacceptable, and contrary to the best interest of the patient.

Even if qualifications and scope of license are represented correctly, practicing beyond the scope of a license is dangerous, clearly unethical, and possibly illegal. The organization or agency issuing the license should be able to define the scope of practice.

INFORMATION

Education

The price most professions pay for existence is education. Very few professions or professional associations exist without entry-level requirements and continuing-education requirements. Despite the cost and inconvenience, the trend in the health care field is for these requirements to increase. Whereas many of the early medical doctors learned through apprenticeship and chiropractic training at one time was a two-week course, both professions now have standards that require eight years or more of college education.

State laws are constantly increasing entry-level requirements and many professions use continuing education to maintain professional competency or expand their scope of practice. The general public and related health care professionals tend to equate professional competency with standards of education.

The problem for many practitioners is keeping up with the huge volumes of information that are being generated by medical research every year. Much of this information is needed to provide the highest quality of health care possible for patients, and some of this information is needed to protect practitioners against charges of incompetent or illegal behavior.

Courses that teach accelerated learning strongly endorse the use of memory aids such as *acronyms* (a word formed from the initial letters of a series of words) or a familiar sequence of letters. Not only do memory aids accelerate learning, they also improve retention and make learning easier. Taking this concept one step farther, the acronym *MERV* and the letters *AEIOU*—a familiar sequence of letters that represents vowels—can be used to help you remember many of the basic principles used in rapid learning.

MERV represents four basic theories that are common to many forms of accelerated learning or super learning.

Music: slow, quiet music in the background seems to accelerate learning.

Enjoyment: people with a positive attitude who enjoy learning, learn faster.

Repetition: practice and repetition increase learning and retention.

Visualization: using imagination to create visual images facilitates learning.

Of all the methods that accelerate learning and retention, creative visualization is probably the most powerful. To understand the basic elements of creative visualization, remember the letters *AEIOU*.

Action: images with action are easier to remember than still images.

Emotion: strong emotions such as love or hate make images stronger.

Interaction: images can be interactively linked together in a chain.

Overstate: images can be intensified by overstating color, smell, or size.

Understate: images can be intensified by understating relative size.

A final method of learning that works for many people is placing the important information on flash cards with questions on the front and answers on the back. Once a question has been answered correctly three times in a row, remove the card from the deck. This avoids wasting time by repeatedly reading a question where the answer is known. It also focuses attention on the information that seems to be more difficult. All flash cards should be saved for use as a reference source at a later date.

Public Awareness

Associations such as the American Medical Association recognize that health care professionals have a responsibility to educate patients as well as colleagues and the public. This frequently brings practitioners into the difficult situation of answering direct questions from patients. These questions are often poorly worded and even the patients themselves may not understand exactly what it is they are trying to ask. Nevertheless, health care workers must try to answer all questions with accuracy and diplomacy.

A question-and-answer session begins by assuming that no question a patient has is insignificant or unimportant. All appropriate questions should be answered as honestly and as completely as possible. Inappropriate questions such as questions about sexual interest or other personal matters should be completely ignored, answered by an apology that professional ethics prevent you from answering such a question, or diverted to another issue. A practitioner is not obligated to answer inappropriate questions.

If a practitioner is not certain of the answer, it is best to admit you are not certain of the answer and then offer what you believe to be the best answer. Most patients respect honesty and despise deception. Rapport, eye contact, empathy, sincerity, and a touch of humor can be very useful during a question-and-answer session.

While no one can give a perfect recipe for answering every question from every patient, the following ten guidelines may be helpful.

- Face the patient while listening to and answering the question.
- Thank the patient for asking a good question.
- If the question is unclear, restate the question.
- Pause before answering the question.
- Never criticize the patient for asking the question.
- If the patient disagrees with an answer, ask for the reasons.
- Try to leave the patient satisfied with the answer.
- Try to stay objective and professional.
- Never argue with a patient.
- If you cannot answer a question, agree to look for an answer.

Advertising

There is nothing intrinsically wrong with advertising professional services. Properly done, ethical advertising can be informative and educational. Most professions have done some degree of advertising at one time or another.

While some professionals claim that advertising degrades a profession, others feel that advertising encourages healthy competition. If advertising is done, it should always meet the same high ethical standards demanded by the profession being advertised. Some states impose additional requirements on advertising such as posting establishment or certification numbers and giving the name and title of any persons offering professional services.

The question of what constitutes legal and ethical advertising is not easy to answer. Advertising is regulated by such established bodies as Congress and the Federal Trade Commission. Any advertising that is false, misleading, or inappropriate is clearly unethical and possibly illegal.

The Federal Trade Commission uses standards such as fairness, total impression, and clarity to determine if advertisements are presenting false claims. If an advertisement is found to be unfair, advertisers may be forced to pay a fine or run a corrective ad at their own expense. Listerine spent \$10 million for advertising to correct a previous advertisement that falsely claimed Listerine cures colds or lessens the severity of colds.

Even though advertising unconventional practices may not be illegal, it may be unethical. What constitutes an unconventional practice is more

difficult to define than what constitutes unethical advertising. By definition, any practice that is not widely accepted by colleagues or peer groups as meeting professional standards can loosely be defined as unconventional. Though the fact a technique is not widely accepted does not mean the technique is ineffective or dangerous, it does raise a cause for concern. If a technique is safe and effective, one can only wonder why other members of the same profession hesitate to use the same technique.

Some advertisements that are neither illegal nor clearly false may not be ethical. Advertisements that offer a free examination frequently end with the examiner recommending treatment for at least one condition or another. Another method of advertisement that sometimes borders on being unethical is creating a sense of urgency by using a scare tactic. Members of one profession recently came under criticism by members of their own profession for making a statement that subluxations are killing your children, the implication here being that children should be adjusted.

Drug companies are famous for using statements such as “no better pain reliever on the market” or “widely used and recommended by many doctors.” If you analyze the first statement, it is not saying the pain reliever being advertised is the best on the market, it is only saying that the pain reliever being advertised is at least as good as any other pain reliever. So what? If it is only as good as any other pain killer and not the cheapest, why not buy one of the others that is equally good and may be cheaper?

The second statement, “widely used and recommended by many doctors” is not specific. The obvious question is: “Used and recommended by what kind of doctors and how many doctors?” Since recommended by a doctor is nothing more than appealing to authority, one might also ask what criteria did these doctors use to evaluate the product. The criteria used by each doctor might be surprisingly different. Usage by itself is also no guarantee of quality. A company may claim that a product is being widely used by doctors if doctors agree to give out free samples of the product.

Two questions can always be used to evaluate advertisements: (1) specifically what evidence is available to prove the advertiser’s claim and (2) if the claim is true, what does it mean. It is always in the best interest of any profession not to use advertisements that are even vaguely questionable.

STATE REGULATIONS

As more states realize that massage therapy is potentially dangerous, as well as beneficial to the public, the trend to regulate the profession and license practitioners will continue. As part of protecting the public from unqualified practitioners, most state agencies that regulate massage therapy have the right to impose discipline. When agencies impose discipline for violating state regulations relating specifically to massage, penalties can range from revocation or suspension of license to criminal charges.

The following list is similar to what many state boards use as grounds for disciplinary action.

- aiding, assisting, or procuring an unlicensed person to practice massage
- being convicted of any crime that relates to the practice of massage
- engaging, or attempting to engage, in sexual misconduct with a patient
- making false, deceptive, or fraudulent statements relating to massage
- practicing massage for compensation without a valid license
- practicing massage while impaired by alcohol, drugs, or narcotics
- practicing, or offering to practice, beyond the scope of license
- procuring a license to practice massage by bribery or misrepresentation
- using false, deceptive, or misleading advertisements

In addition to the above examples of misconduct, most states consider it grounds for disciplinary action to practice massage therapy at a level of competency not recognized as being acceptable by other members of the same profession. In massage therapy, malpractice can be defined as failure to practice massage at a level of care or skill that a reasonably prudent massage therapist would recognize as being acceptable under the same circumstances. Malpractice is clearly one of the most serious charges relating to professional misconduct by health care workers.

In medical malpractice litigation, negligence is normally the critical issue and showing that conduct complies with generally accepted standards is normally the defense. Four elements are used to establish negligence:

- The practitioner must be obligated to provide care for the plaintiff.
- The practitioner must breach a standard of care required by law.
- The plaintiff must suffer an injury.
- The practitioner's conduct must be the cause of the plaintiff's injury.

FLORIDA LAWS AND RULES

Although each state has different laws and rules, the Florida laws and rules relating to misconduct and negligence in the practice of massage are somewhat representative of the laws and rules that are used by most other states that regulate or license massage therapy.

Florida Statute 480.046—Grounds of disciplinary action by the board:

- Attempting to procure a license to practice massage by bribery or fraudulent misrepresentation.
- Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of massage or to the ability to practice massage. Any plea of *nolo contendere* shall be considered a conviction for the purpose of this chapter. (When a plea of *nolo contendere* is entered in a criminal case, the defendant does not technically admit to guilt but agrees not to contest the charges.)
- Aiding, assisting, procuring, or advising any unlicensed person to practice massage contrary to the provisions of this chapter or to a rule of the department or board.
- Making deceptive, untrue, or fraudulent representations in the practice of massage or using false, deceptive, or misleading advertising.
- Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he is not competent to perform.
- Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform.
- Violating any provision of this chapter, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing, or failing to comply with a lawfully issued subpoena of the department.
- Refusing to permit the department to inspect the business premises of the licensee during regular business hours.

Even though the phrase “gross negligence or incompetence” was dropped from Chapter 64B7-30.001 of the Florida Rules as of January 1999, prior to 1999 the following acts were thought to constitute gross negligence or incompetence in the practice of massage:

- Failure to perform any statutory or legal obligation placed upon a licensed massage therapist.
- Being unable to practice massage with reasonable skill and safety to clients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.
- Gross or repeated malpractice or the failure to practice massage with that level of care, skill, and treatment which is recognized by a reasonably prudent similar massage therapist as being acceptable under similar conditions and circumstances.
- Failing to keep the equipment and premises of the massage establishment in a clean and sanitary condition.

Additional grounds for discipline which may also apply to a massage therapist can be found in Florida Statute 456.072—Grounds for discipline:

- Failing to comply with the educational course requirements for human immunodeficiency virus and acquired immune deficiency syndrome.
- Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee.
- Attempting to obtain, obtaining, or renewing a license to practice a profession by bribery, by fraudulent misrepresentation, or through an error of the department or the board.
- Failing to perform any statutory or legal obligation placed upon the licensee.
- Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so. Such reports or records shall include only those that are signed in the capacity of the licensee.

In Florida, some of the most severe penalties involving the practice of massage therapy relate to sexual misconduct.

Rule 64B-26.010(4)—Sexual Activity Prohibited—states: As used in this rule, “sexual activity” means any direct or indirect physical contact by any person or between persons which is intended to erotically stimulate either person or both or which is likely to cause stimulation and includes sexual intercourse, fellatio, cunnilingus, masturbation, or anal intercourse.

Since according to Rule 64B-26.010(3) no licensed massage therapist shall use the therapist-client relationship to engage in sexual activity with any client, it appears that a client is presumed to be *incapable* of giving informed consent to engage in sexual activity with a massage therapist. This means that a client’s willingness to engage in sexual activity with a massage therapist cannot be used as a defense against disciplinary action.

It is further stated in Florida Statute 480.0485—Sexual misconduct in the practice of massage therapy—The massage therapist-patient relationship is founded on mutual trust. Sexual misconduct in the practice of massage therapy means violation of the massage therapist-patient relationship through which a massage therapist uses that relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity outside the scope of practice or the scope of generally accepted examination or treatment of the patient. Sexual misconduct in the practice of massage therapy is prohibited.

In addition to a \$1000 fine, payment for investigative cost which may run into thousands of dollars, and revocation of license, a massage therapist convicted of sexual misconduct may also face civil and criminal penalties.

If a patient offers to engage in sexual activity, it might be advisable to do more than *just say no*. The event should be documented in writing and it may be appropriate to either refuse to treat the patient or refuse to treat the patient without a witness present. Another option is to withhold treatment until the patient gives *written* informed consent that specifies what parts of the body the therapist may undrape or treat. In Florida a massage therapist cannot undrape the buttocks, the genitalia, or the breasts of a female unless the patient gives at least *oral* specific informed consent not to be draped.

MASSAGE ESTABLISHMENTS

Not only do principles such as acting in the patient's best interest, doing the patient no harm, and treating all patients equally and fairly apply to the individual therapist, but they also apply to all the clinics or establishments that provide massage therapy services to the public. For this reason, most states that regulate massage therapy will also have laws and rules that regulate the operation of a massage clinic or establishment.

In Florida, massage clinics or establishments are regulated by Florida Statute 480.043:

- No massage establishment shall be allowed to operate without a license granted by the department in accordance with rules adopted by the board.
- The board shall adopt rules governing the operation of establishments and their facilities, personnel, safety and sanitary requirements, financial responsibility, insurance coverage, and the license application and granting process.
- Any person, firm, or corporation desiring to operate a massage establishment in the state shall submit to the department an application, upon forms provided by the department, accompanied by any information requested by the department and an application fee.
- The board is authorized to adopt rules governing the periodic inspection of massage establishments licensed under this act.

Based on the authorization provided by Florida Statute 480.043, the board has adopted the following rules to govern the operation of massage establishments. According to Rule 64B7-26.003—Massage Establishment Safety and Sanitary Requirements—a massage establishment must:

- Comply with all building code requirements.
- Provide for safe and unobstructed human passage in the public areas of the premises; provide for removal of garbage and refuse; and provide a safe storage or removal of flammable materials.
- Maintain a fire extinguisher in good working condition on the premises.
- Exterminate all vermin, insects, termites, and rodents on the premises.

- Maintain all equipment used to perform massage services on the premises in a safe and sanitary condition, including the regular application of cleansers and bactericidal agents to the massage table. Unless clean sheets, towels, or other coverings are used to cover the massage table for each client, *regular application* means after the massage of each client. If clean coverings are used for each client, then *regular application* shall mean at least once a day and also whenever oils or other substances visibly accumulate on the massage table surface.
- Launder, before reuse, all materials furnished for the personal use of the customer, such as towels and linens.
- Provide adequate toilet and lavatory facilities. To be adequate, such facilities shall have at least one toilet and one sink with running water. Such facilities shall be equipped with toilet tissue, soap dispenser with soap or other hand-cleaning materials, sanitary towels or other hand-drying device such as a wall-mounted electric blow dryer, and waste receptacle. Such facilities and all of the foregoing fixtures and components shall be kept clean, in good repair, well-lighted, and adequately ventilated to remove objectionable odors.
- If equipped with a whirlpool, sauna, steam cabinet, or steam room, maintain adequate and clean shower facilities on the premises.
- Maintain property damage and bodily injury liability insurance coverage. The original or copy of such policy shall be available on the premises of the establishment.
- Maintain lavatories for hand cleaning and/or a chemical germicidal designed to disinfect and cleanse hands without the use of a lavatory in the treatment room itself or within 20 feet of the treatment area.

Not only is it illegal to work in any massage establishment that is not licensed, but it is also illegal to practice massage at any location that is not duly licensed as a massage establishment (Rule 64B7-30.001(1)). An establishment license is not required if a massage therapist treats a client at the client's residence or office or if a therapist has written approval from the property manager to treat a client at a sporting event, convention, or trade.

EDUCATION

One of the most hotly debated topics in recent years has been the issue of entry-level education. In order to receive and maintain Board of Massage Therapy approval in Florida, a massage school must offer a course of study that includes at least 500 classroom hours. According to Rule 64B7-32.003(1)(a)—Minimum Requirements for Board of Massage Therapy Approval—these hours must include:

- Basic massage theory and clinical practicum..... 225 hours
 - Anatomy and physiology 150 hours
 - Allied modalities 97 hours
 - Theory and practice of hydrotherapy 15 hours
 - Florida statutes/rules and history of massage..... 10 hours
 - HIV/AIDS education..... 3 hours
- Total 500 hours

Although many of the states that regulate massage still use successful completion of a 500-hour program as their basic requirement for licensure of a massage therapist, a few states require less than 500 hours and some states require more than 500 hours. The lowest educational requirement in the United States is 250 hours and the highest requirement is 1000 hours.

The highest educational requirements in North America are found in Canada. To become a registered massage therapist, British Columbia requires successful completion of a 3000-hour program, whereas Ontario and Newfoundland require successful completion of a 2,200-hour program.

The basic arguments for and against increasing the minimum entry requirement above 500 classroom hours are as follows:

Arguments for Increasing the Hours

- The entry-level requirement for most other health care professions is far more than 500 hours.
- The amount of scientific information that applies to massage therapy has increased astronomically over the past few years.
- A 500-hour minimum requirement is not sufficient to protect or to promote the welfare of the public.

Arguments Against Increasing the Hours

- Many people who plan to enter the massage field are not interested in practicing medical or clinical massage therapy.
- A training program that requires more than 500 hours of training would discourage people from entering a massage therapy school.
- The extremely small number of people who have ever been injured as a result of massage therapy would indicate that a 500-hour training program is sufficient to protect the public.

There are no right or wrong answers to the question of whether the minimum educational requirement for licensure as a massage therapist should be increased or remain the same. Since educational requirements are more of a legal issue than an ethical issue, the final decision will probably be made by either a board of massage therapy or a state legislature.

What does seem reasonable is that any increase in hours should be accompanied by a clearly defined curriculum that shows how the additional hours should be used. If the minimum requirement is increased beyond 500 hours, possible additions to a standard curriculum include:

- Pathology as it relates to indications and contraindications
- Kinesiology as it relates to muscles and movement
- Exercise physiology as it relates to muscles and energy
- Documentation as it relates to a clinical practice
- Communication skills as they relate to the patient
- Instruction on how, why, and when to refer patients
- Instructions on how to maintain professional relationships

Like many issues involving ethics, morality, or personal opinion, there is no reason to believe that the issue of minimum hours will ever be resolved to everyone's satisfaction. If the massage therapy profession follows the trend that most other health care professions have followed, educational requirements are more likely to increase than decrease. Other factors that may encourage an increase in the minimum entry level requirement are wider use of medical insurance to cover massage therapy, pressure from the insurance companies to demonstrate higher levels of competence, or the emergence of new modalities or techniques that fall within the scope of massage therapy.

ETHICS OR LAW

One of the main differences between ethics and law is the method of enforcement. In most cases, the most severe penalty a health care professional can receive for violating a code of ethics is expulsion from the organization that sponsors the code of ethics. For instance, if a medical doctor fails to follow the part of the American Medical Association Code of Ethics that states a doctor will study, apply, and advance knowledge, the most severe penalty the American Medical Association (AMA) can impose would be to expel the member from the association. Since a medical doctor can practice medicine without becoming a member of the AMA, the penalty may have more social consequences than financial consequences.

A similar situation applies to continuing education requirements. Both the American Massage Therapy Association (AMTA) and the National Certification Board of Therapeutic Massage and Bodywork (NCBTMB) have wording in their codes of ethics that states a member should work to improve professional knowledge and competence through continued education training. While these goals add to the credibility of both professional associations, enforcement is still limited to expulsion of any member who fails to comply.

Most laws relating to continuing education, on the other hand, have penalties that include severe financial consequences such as suspension or revocation of license or \$1000 fines. The law regulating continuing education requirements in Florida is similar to the ones found in most other states that require continuing education credits for license renewal.

As stated in Florida Statute 480.0415—License renewal—The board shall prescribe by rule the method for renewal of biennial licensure which shall include continuing education requirements not to exceed 25 classroom hours per biennium. The board shall establish criteria for the approval of continuing education programs or courses. The programs or courses approved by the board may include correspondence courses that meet the criteria for continuing education courses held in a classroom setting.

While the main penalty for failing to complete biennial continuing education credits is the inability to maintain an active license, a therapist who submits a license renewal form and falsely reports having completed the continuing education requirement may be charged with making deceptive, untrue, or fraudulent representations, which carries a penalty of a \$1000 fine and revocation of license under Florida Rule 64B7-30.002.

SELF-IMPROVEMENT

Since most ethical standards strongly endorse self-improvement and striving for professional excellence, it might be wise to consider notable characteristics that contribute to making someone a good soft-tissue therapist. Many of these characteristics are found in other highly successful people. Seven of these characteristics can be summarized by the acronym *PASSION*, as in "passion for being a competent soft-tissue therapist."

Perseverance: dogged persistence when dealing with obstacles.

Ability: physical and psychological talents for working with people.

Skills: expertise as a problem-solver, communicator, and therapist.

Self-discipline: patience and the ability to manage time and resources.

Interest: curiosity, creativity, objectivity, and strong desire to learn.

Objectives: goals that are well defined, realistic, and measurable.

Need: a definite understanding of the patient's need for therapy.

A competent soft-tissue therapist is a person of action. Most of them take responsibility for their own acts and persevere until they achieve their goals. Even the most competent practitioners make mistakes. Mistakes should be viewed as a positive learning experience, not a reason for self-punishment. It is more important to fix the problem than to fix the blame. Learn from mistakes and move on enthusiastically to the next challenge.

People who become extremely competent in soft-tissue therapy normally see therapy as their purpose in life. It gives their life meaning and direction and they constantly work hard to improve themselves. They become constant learners who set goals for themselves in terms of progress and achievement. Many of these people put their goals in writing and review the goals on a daily basis. The elements of a workable goal can be summarized by the acronym *SATISFY*, as in "satisfy your goals."

Specifically defined with objectives and benefits

Achievable by the goal-setter

Timely with deadlines for completion

Intensively and clearly visualized by the goal-setter

Scientifically measurable by objective standards

Flexible enough to allow for change

Your responsibility to achieve

CONCLUSION

The best possible way to conclude this course is by summarizing many of the basic points covered in the code of ethics published by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB). This code could easily serve as a standard for anyone practicing soft-tissue therapy. It not only contains many elements embraced by the American Medical Association, but it also addresses issues that apply directly to massage therapy.

The importance of belonging to a professional association cannot be overstated. There is no recognized and credible health care profession in this country that is not represented by a professional association. Most professional associations impose higher standards of conduct than state laws that regulate licensure. They also allow colleagues to share information and goals that benefit both the public and the profession.

Basic directives of the NCBTMB code of ethics include:

- acknowledge limitations of massage and contraindications
- avoid any inducement that may interfere with professional duties
- conduct business activities with honesty
- honor the client's right to informed consent
- improve professional knowledge and competence
- make appropriate referrals to other health care professionals
- never unjustly discriminate against any person
- practice within the scope of your license
- provide the highest quality treatment possible
- refrain from sexual misconduct
- refuse to treat a person or body part when justified
- represent qualifications honestly
- respect the inherent worth of all people
- safeguard the client's right to personal privacy
- safeguard the client's right to confidentiality

In many respects, one statement from the Hippocratic Oath summarizes the entire spirit of the above code:

I will use treatment to help the sick according to my ability and judgment but never with a view of injury or wrongdoing.

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GLOSSARY

contraindication A symptom or condition that makes the use of a specific procedure or treatment inappropriate.

cunnilingus oral stimulation of the vulva or clitoris.

ethics A system of moral values or a set of principles that deals with the distinction between right and wrong.

fellatio oral stimulation of the penis.

ischemia Insufficient or decreased blood supply to a tissue or organ due to constriction, obstruction, or pressure.

kinesiology The science or study of muscles and body movement.

law A set of principles or rules that are designed to protect or restrict people and that are capable of being enforced by legal sanctions.

manipulation The skillful and dexterous use of the hands for therapeutic or diagnostic procedures such as range-of-motion stretching or palpation.

massage therapist A person licensed by law who administers massage for compensation.

patient One who is being treated for an injury or illness or one who receives a health care service.

practitioner A person who has met the professional and legal requirements to practice medicine or one of the allied health care professions.

therapist A health care professional trained or skilled in the practice of therapy.

vertebrobasilar insufficiency A pathologic condition that occurs when the volume of blood transported to the brain via the vertebral or basilar arteries is inadequate to maintain normal cerebral function because of ischemia.

HEMME APPROACH QUIZ

1. Also known as the "father of modern medicine," who authored the oath that has guided the ethical practice of medicine for more than 2000 years?
 - a. Herodicus
 - b. Hippocrates
 - c. Caelius
 - d. Aurelianus

2. What is the system of moral standards called that most professional associations use to govern conduct?
 - a. code of conduct
 - b. code of justice
 - c. code of ethics
 - d. code of honor

3. Which principle(s) should be **included** as part of an ethical standard?
 - a. compassion and respect for human dignity
 - b. safeguarding the patient's right to privacy and confidentiality
 - c. protection against misinformation or misrepresentation
 - d. all of the above

4. Which principle should be **excluded** as part of an ethical standard?
 - a. protection against incompetent, unethical, or illegal practices
 - b. protection against illegal search and seizure
 - c. ongoing continuing education to improve standards of treatment
 - d. honesty in business dealing and respect for the law

5. Which of the following may cause allegations of sexual misconduct?
 - a. refusing to expose or touch the genital areas of a patient
 - b. telling jokes or using humor that involves sex or sexism
 - c. refusing to discuss sexual matters that are not related to treatment
 - d. refusing to have sexual contact with patients outside the office

6. Which goal is **not** considered part of soft-tissue therapy?
 - a. adjust vertebrae
 - b. neutralize trigger points
 - c. facilitate or inhibit muscles
 - d. lengthen restricted tissues

7. Accidents relating to which contraindication are most likely to cause paralysis or death?
 - a. acute inflammation or infection
 - b. calcification of soft-tissue
 - c. fever or chills
 - d. vertebrobasilar insufficiency

8. What is the official reason for regulating the practice of soft-tissue therapy by state law?
 - a. create economic monopolies
 - b. ego gratification
 - c. protect the public
 - d. protect personal income

9. Which factor is **not** likely to invalidate research studies?
 - a. blind allegiance to old ideas
 - b. resistance to new ideas
 - c. asking too many questions
 - d. drawing the wrong conclusions

10. Which method(s) can be used to evade the truth?
 - a. appeal to authority
 - b. appeal to ignorance
 - c. special pleading
 - d. all of the above

11. What is the last step of the scientific method?
- identify the problem
 - observe relevant facts
 - formulate theories
 - draw conclusions or make decisions
12. Which condition has been identified by medical doctors for many years even though the exact cause is still unknown and most doctors cannot agree on exactly what constitutes a primary syndrome?
- fibromyalgia
 - fibrositis
 - myositis
 - fibromyositis
13. Which condition(s) may contraindicate soft-tissue therapy?
- acute inflammation or infection
 - circulatory failure
 - inability to give informed consent
 - all of the above
14. Which form of manipulation is **not** used in the **HEMME APPROACH**?
- trigger point therapy
 - neuromuscular therapy
 - range-of-motion stretching
 - spinal manipulation
15. How can health care professionals ethically protect themselves against HIV transmission?
- discriminate against high-risk groups such as gay males
 - use protective barriers such as latex or vinyl gloves
 - only treat people who test HIV-negative
 - avoid contact with AIDS patients

16. Which statement is **false** concerning the right to informed consent?
- people being tested for HIV have a right to informed consent
 - informed consent must be given in writing
 - patients must be told the nature and consequences of a treatment
 - patients can refuse treatment at any time
17. When conducting a question-and-answer session with a patient, which behavior is recommended for improving communication?
- listen to the patient at least part of the time
 - criticize the patient for asking foolish questions
 - answer before the patient has time to complete the question
 - if you cannot answer a question, agree to look for an answer
18. Which practice is normally considered ethical and legal?
- offering to engage in sexual misconduct with a patient
 - making false or deceptive verbal statements relating to massage
 - advertising professional services on television
 - practicing slightly beyond the scope of your license or discipline
19. Which practice is **not** listed as grounds for disciplinary action?
- being convicted of a crime that relates to the practice of massage
 - making deceptive representations in the practice of massage
 - offering to practice beyond the scope of practice permitted by law
 - not having a business open for inspection at least 40 hours per week
20. Which act(s) may be classified as gross negligence or incompetence?
- failing to perform a statutory or legal obligation
 - being unable to practice massage with reasonable skill
 - failing to keep equipment in a clean and sanitary condition
 - all of the above

21. Which of the following is **not** considered a sexual activity?
- a. sexual intercourse
 - b. exchanging of pornographic pictures
 - c. fellatio or cunnilingus
 - d. masturbation
22. Which activity may be *legal but not ethical* for a massage therapist?
- a. using erotic massage to stimulate and relax a patient
 - b. asking a patient to engage in sexual activity
 - c. telling a patient a humorous joke that relates to sex
 - d. having sex with a patient if the patient agrees
23. Which act may be *legal* for a massage establishment?
- a. not having adequate and clean shower facilities on the premises
 - b. failing to comply with building codes not related to massage
 - c. not providing for safe and unobstructed human passage
 - d. not maintaining bodily injury liability insurance
24. How many hours of training do many of the states that regulate massage require?
- a. 250
 - b. 500
 - c. 1000
 - d. 3000
25. Which act(s) may be classified as both unethical and illegal?
- a. using false advertising to increase business
 - b. practicing beyond the scope of your license
 - c. engaging in sexual misconduct
 - d. all of the above