

PT 760

10/1/2015

### A Patient Case Report

My first encounter with a legal and ethical dilemma in a clinical setting occurred while volunteering at a skilled nursing facility. I had been volunteering for a couple weeks at the time and was trying to help the PTs and PTAs with what I could. As a volunteer, I was at the lowest position and due to liabilities, had limited interactions with patients, but I tried my best to talk to the patients and learn some processes that were taken to their treatment. As a volunteer, I was untrained and unlicensed to work with patients hands-on. Volunteers still have to abide with HIPAA standards and the laws/rules/regulations of the Physical Therapy Board of California in order to gain experience while not over-stepping boundaries established for legal, ethical, and quality-of-care purposes.

I recall a day as any other with me standing by in the PT room, with 4-6 patients working simultaneously. There was one man who was not attended by a therapist so I was standing next to him to watch him in case something was to happen. The next thing I notice was the older gentleman, who was wheelchair bound, grabbed me by the wrist and pulled down on my arm. He looked at me with an intense gaze and motioned his other hand, patting his lap. He told me to "come sit down". I was shocked, confused, and frightened. The PTs and PTAs must have heard something because the room was silent. The focus was on me and how I could defuse this situation. As a simple and lowly volunteer, what rights did I have? What was this man's condition exactly? Was it mental? Or perhaps that was his normal behavior? Of course, a person's natural reaction to being molested is to pull away. However, I did not know what condition this man might have had and pulling away with a ballistic movement could end up injuring a patient. So I stood there, pondering my options for a split second. But still as an attacked animal, I reacted by lightly resisting his grip, without any jerkiness and politely declined with a, "no thank you." He eventually let go and a PT came around to attend to him.

The situation was even more bizarre because nobody spoke to him during the incident. The PT and PTAs knew what occurred because I heard them talking to one another about how they could not believe that happened and that it was wrong. However, nobody apologized for not helping me in that moment or offer any talk of it with me. I felt alone and ostracized, like

What was the pt's health condition??



everyone with a position of power (PTs or PTAs) did not think that moment of sexual harassment was worth anything. They did not take the time out of their busy schedules to show any empathy nor advice about what to expect in the field.

I then thought it must have been my fault. It must have been my callipygian figure enveloped in a titillating black number to evoke such a lustful response. But alas, I was just wearing a frumpy black scrub set from Walmart, per the request of the dress code uniform for the PT department at the SNF. Even though the scrub top had a somewhat V-neck cut, I doubt that the plunging neckline which revealed my prominent clavicle would justify that type of behavior from the patient. It could not have been my fault in my opinion; sexual harassment just occurs. But I felt guilty anyways because of how it was handled, or rather not handled, just swept under the carpet.

The situation described had legal and ethical implications because, as a volunteer under a PT, any one of the PTs had a responsibility for my actions and how appropriately resolving the situation. The PT's responsibility extends to PTAs, aides, and presumably volunteers. Volunteers are not explicated defined nor mentioned under the PTBC.ca.gov website for regulations (only PTAs and aides), making this a grey area.

According to APTA code of ethics, Principle #1 states that PTs shall respect the inherent dignity and rights of all individuals, regardless of status such as a lowly one like a volunteer. Also, the PT ~~was~~ did not make a sound professional decision under the APTA ethical principle 3E: Physical therapists shall provide appropriate direction of and communication with physical therapist assistants and support personnel. I was an unpaid volunteer, but could still be considered under support personal. The fact that none of the PTs provided direction or communication to me about how to handle the situation is a testament to it. Also to disregard my integrity as a human being who could have been damaged by this harassment, the PTs did not heed to APTA ethical Principle 4B: to not exploit persons over whom they have supervisory, evaluative or other authority (eg, patients/clients, students, supervisees, research participants, or employees). My low, unpaid status made it easy for the PT to exploit my rights and avoid the situation. Furthermore, according to APTA Principle #5B: PTs have primary responsibility for supervision of physical therapist assistants and support personnel. I did not feel I have the power or authority to reprimand the patient, but it was the PT, who technically was somewhat supervising, (by witnessing the event) but ultimately chose not to do anything about it.

As for legality implications, if an employer knows that a non-employee is sexually harassing an employee and does nothing to stop it, the employer could be subject to a sexual harassment claim. Of course, I was not considered an employee, but instead a gray-area-defined position of a volunteer (closest regulations to my status were for the PT aides via the PTBC website), so these legal rights do not apply even if I may be considered support personnel. Health care professionals such as PTs must observe their own personal moral beliefs, the civil and criminal laws within California, and the professional ethics standards of their professional associations and other entities. Perhaps the PTs working at the SNF may have upheld their own personal beliefs and obeyed the California regulations, but they did not conduct ethical standards.

The impact of the legal/ethical factors may affect the patient's rehabilitation because of ability to trust the PT. If the PT were to tell the patient that the behavior of sexual harassment is inappropriate, then maybe the patient will not feel comfortable working with the patient, affecting compliance with exercises during the session, which will further delay the healing process.

*PT/patient*

On the other hand, if the PT chose to do nothing when he or she or someone working under them is being sexually harassed, the PT may be scared to treat the patient and try to discharge them quickly (or add too swift of a progression) or even avoid/neglect working with the patient, which can cause greater injury to the patient or halt progression. Naturally, when a health care professional feels sexually harassed by a patient, they tend to distance themselves from that patient, providing the bare medical essentials but withholding emotional support. Lack of empathy may also affect the mentality (mood), which may also affect rehabilitation and recovery time via altering the type and level of care.

One of the four foundational biomedical ethical concepts which affect health care professional ethics is beneficence (Scott, 2009). Beneficence involves acting in a patient's best interests: health care professionals are their patients' fiduciaries and stand in a position of special trust and confidence. If the PTs' intentions were to act in the best interest of the patient, to develop the special trust and confidence in their relationship, then they were justified, albeit biased. Whereas trust is important for a patient, there are still boundaries set that must be followed to ensure a healthy professional relationship to better the patient.

If I were the PT on site, I would address these barriers to patient care. I would communicate with the patient so they know the behavior is inappropriate and to cease further behaviors and then report it to a supervisor. I would feel it were my responsibility a conversation with the patient and say, "There are the rules here and this type of behavior is not allowed," even if the offense was toward a non-employee. This would also further uphold professionalism to keep the work place a safe environment, but I would make sure that everyone (PTs, PTAs, Aides, patients) knows and is reminded that that behavior will not be tolerated. To let an incident like sexual harassment slide may encourage the behavior again or from others. It is best to communicate to resolve issues like this in order to give the best patient care and avoid conflict.

### Works Cited

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Scott, R. (2009). *Promoting Legal and Ethical Awareness: A Guide for Health Professionals*. St. Louis, MO: Mosby-Elsevier.