

**AOSSM ANNA Annual Meeting 2021  
IC 303 Ethical Dilemmas in Sports Medicine**

**Marlene DeMaio, MD**

- I. Definitions (<https://www.merriam-webster.com/dictionary/>)
- A. Ethics
1. ['eTHiks], Noun
    - moral principles that govern a person's behavior or the conducting of an activity.
      - "medical ethics also enter into the question"
      - *synonyms*: moral code · morals · morality · moral stand · moral principles · moral values
    - the branch of knowledge that deals with moral principles.
    - *synonyms*: fairness · justness · fair play · fair mindedness · equity · equitableness
  2. Formal code by professional societies: AMA's "Principles of Medical Ethics" is basis for most codes and policies
- B. Professionalism
1. [pro fesh'e nel iz'em], Noun
    - the competence or skill expected of a professional.
      - "the key to quality and efficiency is professionalism"
      - *synonyms*: expertise · skillfulness · expertness · adeptness · adroitness · deftness · dexterity · ability · prowess · mastery · competence · competency · capability · efficiency · aptitude
    - the practicing of an activity, especially a sport, by professional rather than amateur players.
      - "the trend toward professionalism"
      - *synonyms*: skill · practical knowledge · practice · training · learning · education · grounding · knowledge · understanding · wisdom · background · record
  2. Defined by societies, organizations; boards; state licensure; privileging bodies
- C. Conduct
1. [kan'dukt'], Noun [[Latin conductus, past participle of conducere, see CONDUCE]]
    - the manner in which a person behaves, especially on a particular occasion or in a particular context, behavior, deportment.
      - "the conduct of the police during the riot" ·
      - *synonyms*: behavior · way of behaving · performance · comportment · demeanor ·
    - the action or manner of managing an activity or organization, process of managing or direction, handling.  
"his conduct of the campaign"

- synonyms:management · managing · running · direction · control · controlling ·

- II. Topics
  - A. Physician-patient relationship**
  - B. Personal conduct**
  - C. Conflicts of interest and gifts
  - D. Competence
  - E. Research and academic responsibilities
  - F. Community responsibility and volunteerism

- III. Cases
  - A. \*Lesson 1: It is not always about the athletes.

A Trainer and a Health Tech report one of the team physicians is “*very sad and seems depressed.*”

Same physician admits prescribing mood-altering medication for himself so he can work.

#### AUDIENCE RESPONSE

- A. You report him to the Chief of Medical Staff.
- B. You report him to the State Medical Board.
- C. You recommend to the Head Coach he be removed from Medical Staff.
- D. You talk with him in private about what you have learned.**

- 1. Impaired Provider: A Spectrum of Degree and Types
  - a. Types of Impairment
    - 1) Medical
    - 2) Physical
    - 3) Mental Health (including anger)
    - 4) Substance abuse and medications
  - b. Degree: Partial, Total
    - 1) Professional life
    - 2) Personal life
    - 3) Both

- 2. *AMA Statement (Adopted June 1957; Revised June 1980; Revised June 2001  
AMA, Principles of Medical Ethics*

II. A physician shall uphold the standards of professionalism, be honest in all professional interactions, and strive to report physicians deficient in character or competence, or engaging in fraud or deception, to appropriate entities

- 3. Extent of self prescribing underestimated
  - a. *Gendel, et. al J Med Ethics 2012 38(5):294*

- 5) Survey of licensed physicians in CO, 2500 physicians, mean age 49
- 6) Self prescription is common
  - 34% self prescribed or used samples of addictive or psychotropic meds
  - 59% self prescribed for chronic conditions
- b. *Montgomery, et. al Occ Med 2011 61:490*
  - 1) Systematic review, 27 studies over 19 years; 28,628; response rate 66%
  - 2) Physicians and medical students
    - Mean, physicians 61% (SD 25%) in 23 studies
  - 3) 76% studies reported self prescription in >50% of the respondents

#### 4. Burnout

##### a. Definitions

- 1) Dictionary (<https://www.merriam-webster.com/dictionary/>); First use 1940
  - The cessation of operation of a jet or rocket engine; the point at which burnout occurs
  - **Exhaustion** of physical or emotional strength or motivation usually as a result of prolonged stress or frustration; a person suffers get from burnout
    - A person showing the effects of **drug abuse**
  - Synonyms: collapse, exhaustion, fatigue, frazzle, lassitude, prostration, tiredness, weariness
- 2) WHO Definition, [Burn-out an "occupational phenomenon": International Classification of Diseases \(who.int\)](http://www.who.int/classifications/icd-11/burn-out)
  - i. included in ICD-11 as an **occupational phenomenon**. It is **not** classified as a medical condition.
 

‘Factors influencing health status or contact with health services’ – which includes reasons for which people contact health services but that are not classed as illnesses or health conditions.”

Burn-out is defined in ICD-11 as follows: “Burn-out is a syndrome conceptualized as resulting from chronic workplace stress that has not been successfully managed. It is characterized by three dimensions:

- feelings of energy depletion or exhaustion;
- increased mental distance from one’s job, or feelings of negativism or cynicism related to one's job; and
- reduced professional efficacy.

ii. The World Health Organization is developing of evidence-based guidelines on mental well-being in the workplace, including burnout.

##### b. occupational health origins

- 1) Herbert Freudenberger, 1974 (*Freudenberger, J Soc Issues 1974 30:159-165*)
  - i. “consequences of severe or prolonged stress and anxiety experienced by people working in the healing professions”
  - ii. Examples: Burn units, ICUs

- 2) Maslach and Jackson, 1981 (*Maslach, J Organ Behav 1981 2:99-113*)
- i. “syndrome of emotional exhaustion and cynicism the occurs frequently among individuals who do people work of some kind”
  - ii. **Triad**  
**Emotional exhaustion**  
**Depersonalization**  
**Decreased sense of personal accomplishment**
  - iii. Maslach Burnout Inventory for specific occupations [Maslach Burnout Inventory \(MBI\) - Assessments, Tests | Mind Garden - Mind Garden](#)
    - MBI-HSS (MP): for Medical Personnel
    - MBI-HSS: for Human Services workers
    - MBI-ES: for Educators
    - MBI-GS: for General use
    - MBI-GS (S): for Students

- c. Prevalence of Burnout (after *Templeton, AMA Discussion Paper, 28 May 2019; Dimou, J Am Coll Surg 2016 222:1230-1239*)

	N	% WOMEN	% MEN
<b>Peckham</b> 2018 Medscape Survey (all specialties)	15,543	48	38
<b>LaFaver, et al</b> (neurologists) Neurology 2018	1671	65	58
<b>Shanafelt, et al</b> (oncologists)	1490	50	40
<b>Dyrbye, et al</b> (ACS members) Arch Surg 2011	7905	43.3	49
<b>Shanafelt, et al</b> (ACS members) Ann Surg 2009	7905	<b>5</b>	<b>0%</b>

- c. Differential Diagnosis of “Pathologic” Fatigue

*Pathological fracture analogy--Alexandra Page, MD*

- 1) COVID-19 long haulers: pulmonary and cardiac
- 2) Cardiac: arrhythmia
- 3) Hematologic: Anemia
- 4) Endocrine Disorders: Hypothyroidism, DM
- 5) Sleep Disorders & Sleep Apnea
- 6) Inflammatory Arthropathy
- 7) Immune Syndromes
- 8) Behavioral Disorders**
- 9) Substance Abuse**

### 5. Action Plan:

- Speak directly with the physician
- Confirm facts
- Discuss and determine a plan
  - Medical evaluation: new diagnosis, carcinoma
  - Mental health
  - Your role (or not)

### Outcome:

- Provider received appropriate medical and mental health treatment
- Was able to continue with all responsibilities, including as a physician for the team

### B. Lesson 2: Sometimes extra help causes extra work.

During the football season, the AD takes brain imaging of a 24 y.o. player to another institution for evaluation.

The player, medical staff, trainers, and coaches were *not aware*.

You find out when a specialist at the other institution calls you.

### AUDIENCE RESPONSE

- A. You discuss the case thoroughly with the specialist.
- B. You inquire how the case came to the specialist.**
- C. You report the AD for a HIPAA violation.
- D. You report the AD and the specialist for a HIPAA violation.

#### 1. HIPAA and HPI

#### Health Insurance Portability and Accountability Act of 1996 (HIPAA) | CDC

“The Privacy Rule strikes a balance that permits important uses of information while protecting the privacy of people who seek care and healing.”

#### a. Problems

- 1) No Consent; No formal/written or oral consent
- 2) No “opportunity to agree or object to the disclosure of PHI” outside the HC system
- 3) Questionable practice
  - i. AD acting without awareness of coaching, medical, training staff
  - ii. Trust: Several discussions

#### **b. Disclose to specialist and inquire about access**

#### 2. NCAA Form 20-1a

- a. Information related to grades
- b. Information related to eligibility
- c. Drug testing
- d. Medical information
  - 1) Protected under HIPAA

- i. For the adult or emancipated minor athlete
  - ii. Parental consent
  - iii. Special cases: Research and Non-identifiable data (Registries)
- 2) Press releases
- 3. HIPAA and COVID-19 Vaccinations
  - a. Variable COVID-19 responses for athletics
    - 1) Federal, State, Local
    - 2) Within same athletic conferences and divisions
  - b. PHI: Vaccination Status and History of Infection

***EXCEPTIONS to HIPAA may allow for “Vaccine Passport”***

Public interest and benefit activities—The Privacy Rule permits use and disclosure of protected health information, without an individual’s authorization or permission, for 12 national priority purposes:

- #1 When required by law
- #2 Public health activities
- #4 Health oversight activities
- #9 Research, under certain conditions
- #10 To prevent or lessen a serious threat to health or safety

C. Lesson 3: The physical exam is not always just a physical exam.

You will be performing complete pre-participation history and physicals on males and females.

You will be examining male (may include hernia screening) and female athletes (no breast or gynecological exams).

AUDIENCE RESPONSE

- A. Chaperones are not required for pre-participation exams.
- B. Chaperones are not required for if you are the same sex/gender as the athlete.
- C. Adult athletes do not require chaperones.
- D. Chaperones will be available.**

- 1. Statements
  - a. FORUM 2018 Position Statement: Creating a Safe Environment for Athletes

Endorsed by RJOS and AAOS in 2019 (Scerpella, DeMaio, Walcott, Sutton)  
[the-forum-creating-a-safe-environment-for-competitive-athletes.pdf \(aaos.org\)](https://www.aaos.org/the-forum-creating-a-safe-environment-for-competitive-athletes.pdf)

To create a culture of responsiveness and to foster a safe environment in which athletes may thrive, The Forum recommends the following principles, to be adopted as a standard for sports medicine providers:

- The sports medicine practitioner should recognize potential sexual abuse/harassment and provide an immediate and appropriate response.
- The athletic training room should provide a safe haven for athletes, where discriminatory behavior and sexual abuse/harassment are not tolerated and where athlete confidentiality is respected.
- A policy for reporting suspected or alleged sexual abuse/harassment should be clearly posted in every athletic training room. This policy must include the reporting of suspected or alleged criminal behavior to a law enforcement agency and provisions to protect athlete safety and confidentiality.
- Annual education should be mandated for all parties involved in athlete management, including medical personnel, coaches, administrators and other athletes. Education should include recognition of sexual abuse/harassment, Title IX obligations and reporting procedures as well as repercussions for failure to report. This training may be included with existing programs for cultural competency, discrimination, and other programs but must be specific to the athlete.

b.AMA, Code of Medical Ethics Opinion 1.2.4

[COMMENT: ASK first; NO means no→avoid tort, physical/sexual abuse claims]

*AMA Principles of Medical Ethics: I, IV*

Provide: a comfortable and considerate atmosphere  
 appropriate gowns, sensitive use of draping  
 private facilities for undressing and dressing  
 explain the physical examination parts

2. Policies (example: University of Michigan, Michigan Medicine)

a. Goals

- 1) Follow or develop a consistent policy of respect and dignity
- 2) perform sensitive or GU exams when clinically necessary
- 3) determine when to defer and refer to the specialist

b. Chaperone Policy, AMA Code of Medical Ethics Opinion 1.2.4

*AMA Principles of Medical Ethics: I, IV*

- Adopt a policy that patients may request; ensure that the policy is communicated.
- Always honor a patient's request to have a chaperone.
- Have an authorized member of the health care team serve as a chaperone. Establish clear expectations that chaperones will uphold professional standards of privacy and confidentiality.
- In general, use a chaperone even when a patient's trusted companion is present.
- Provide opportunity for private conversation with the patient without the chaperone present. Physicians should minimize inquiries or history taking of a sensitive nature during a chaperoned examination.

	DEFINITIONS	COMMENT
Sensitive examination or procedure	Genitalia and rectum (regardless of gender) Female breast or the breast of a patient who identifies as female.	When the patient states the exam is sensitive
Vulnerable population	At risk: real or perceived Cultural differences Includes males and females	Prior abuse: mental, physical, sexual
Chaperone (stand by)	A witness for a patient and a health professional during a medical examination or procedure The gender is the gender the patient feels most comfortable Family member if athlete is a child, < 10 y.o.	Has responsibilities Note if patient is acting anxious or uncomfortable. Report unprofessional or abusive physicians.

## References

ACOG Committee Opinion 373: Sexual misconduct. (2007). *Obstetrics and Gynecology*, 110(2 I), 441-444.

AMA Code of Medical Ethics. Issued Dec 1998, adopted June 1998. Opinion 8.21  
*Use of Chaperones During Physical Exam*

AMA Code of Medical Ethics Opinion 1.2.4: Use of Chaperones  
*Use of Chaperones | American Medical Association (ama-assn.org)*

Dimou FM, Eckelbarger D, Riall TS.  
Surgeon Burnout: A Systematic Review. *J Am Coll Surg*. 2016 Jun;222(6):1230-1239.  
doi: 10.1016/j.jamcollsurg.2016.03.022.

Jeckell AS, Copenhaver EA, Diamond AB.  
The Spectrum of Hazing and Peer Sexual Abuse in Sports: A Current Perspective. *Sports Health*. 2018;10(6):558-564.  
doi:[10.1177/1941738118797322](https://doi.org/10.1177/1941738118797322)

FORUM Position Statement, on AAOS Position Statements Webpage  
[the-forum-creating-a-safe-environment-for-competitive-athletes.pdf \(aaos.org\)](https://www.aaos.org/position-statements/the-forum-creating-a-safe-environment-for-competitive-athletes.pdf)

Freudenberger, H. J.  
Staff Burn-Out. *Journal of Social Issues*, 1974 30, 159-165.  
<http://dx.doi.org/10.1111/j.1540-4560.1974.tb00706.x>

Gendel MH, Brooks E, Early SR, *et al*  
 Self-prescribed and other informal care provided by physicians: scope, correlations and implications *Journal of Medical Ethics* 2012;38:294-298.  
<http://dx.doi.org/10.1136/medethics-2011-100167>

HIPAA and HPI

*Health Insurance Portability and Accountability Act of 1996 (HIPAA) | CDC*

Montgomery AJ, Bradley C, Rochfort A, *et al*.  
 A review of self-medication in physicians and medical students, *Occupational Medicine*,  
*Volume 61, Issue 7, October 2011: 490-497*  
<https://doi.org/10.1093/occmed/kqr098>; [kqr098 490..497 \(wfsahq.org\)](http://kqr098.490..497.wfsahq.org)

Maslach, C. and Jackson, S.E.

The measurement of experienced burnout. *J. Organiz. Behav.* 1981 2: 99-113.  
<https://doi.org/10.1002/job.4030020205>

Malasch Burnout Inventory

[Maslach Burnout Inventory \(MBI\) - Assessments, Tests | Mind Garden - Mind Garden](#)

Michigan Medicine, University of Michigan.

*The Use of Chaperones During Sensitive Examinations and Procedures | Michigan Medicine (uofmhealth.org)*

Templeton, K., C. Bernstein, J. Sukhera, L. M. Nora, C. Newman, H. Burstin, C. Guille, L. Lynn, M. L. Schwarze, S. Sen, and N. Busis.  
 Gender-based differences in burnout: Issues faced by women physicians. *2019 NAM Perspectives*. Discussion Paper, National Academy of Medicine, Washington, DC. <https://doi.org/10.31478/201905a>

WHO

[Burn-out an "occupational phenomenon": International Classification of Diseases \(who.int\)](#)

*"Not in order to know what good men are like but in order to act as good men do."  
 ARISTOTLE*