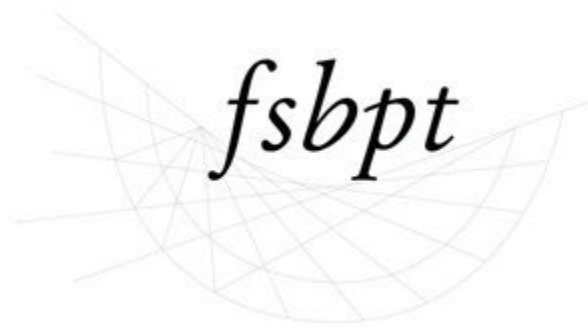


Federation of State Boards of Physical Therapy

Basis for Disciplinary Action Guidelines and Examples

A tool to assist regulatory bodies categorize basis (or bases) for disciplinary action.



December 2022

Background and Purpose

The purpose of the Federation of State Boards of Physical Therapy Examination, Licensure and Disciplinary Database (ELDD) is multi-fold. Most importantly, it serves as an alert mechanism for physical therapy licensing boards. If a licensee holds multiple licenses and gets disciplined in one jurisdiction, the FSBPT ELDD will alert the other jurisdictions in which the individual is licensed. This prevents sanctioned individuals from moving across state lines to avoid the effects of disciplinary action. This alert system is critical for public protection. Beyond this, however, the database is a rich source of data that can help licensing boards formulate decisions based on evidence.

The ELDD uses the same Basis for Action Categories as the National Practitioner Data Bank (NPDB) since all jurisdictions are required to report to the NPDB and to keep things as simple as possible for the FSBPT members filling out NPDB reports. Historically, the NPDB provided no specific definitions for these Basis for Action Categories. Without specific definitions for the categories, it is nearly impossible to determine when to use one category versus another. As a result, every jurisdiction was categorizing the data differently. Without consistency, the data has limited, if any use.

In 2008, to help solve this problem, the FSBPT Board of Directors appointed the Disciplinary Categories Task Force to develop definitions and guidelines for how and when to use the categories. The task force was represented by four different jurisdictions as well as a board attorney. Over the course of several months, they defined and refined the categories. They used sample cases to test their definitions. A basis for disciplinary action definitions and descriptions reference document was created and shared with the physical therapy boards.

In 2019, representatives from the Association of State and Provincial Psychology Boards (ASPPB), Association of Social Work Boards (ASWB), Federation of State Medical Boards (FSMB), National Association of Boards of Pharmacy (NABP), National Board for Certification in Occupational Therapy (NBCOT), National Council of State Boards of Nursing (NCSBN), and FSBPT began working with HRSA and the NPDB to promote consistency in code use across jurisdictions and professions. They reviewed current usage by profession, looked for redundancies and overlap, explored what could be missing and created updated language, guidance, and examples. This work was sent to the NPDB for their review and the consortium proposed they adopt these guidance and examples for use and training. The NPDB put this into the Federal Register for public comment and after a few minor changes they formatted and published these changes to their website. The new code list is effective 12/16/2022.

The full new code list can be reviewed on NPDB's website at <https://www.npdb.hrsa.gov/software/codes.jsp>.

Updated basis codes, guidelines, and examples from NPDB's code list that pertain to state licensure disciplinary actions are listed below.

NATIONAL PRACTITIONER DATA BANK (NPDB)

CODE LISTS

Version 2.10

December 2022

**U.S. Department of Health and Human Services
Health Resources and Services Administration
Bureau of Health Workforce
Division of Practitioner Data Bank
Parklawn Building, Room 11SWH03
5600 Fishers Lane
Rockville, Maryland 20857**

Federal Licensure, State Licensure or Certifications Actions

Table 48 - Non-Compliance With Requirements

Code	Description	Guidelines	Examples and Explanations
44	Default on Health Education Loan or Scholarship Obligations	Fails to meet health education loan or scholarship obligations.	Explanation: Use only if your state has this requirement.
35	Drug Screening Violation	Fails a drug screening test.	Examples: <ul style="list-style-type: none"> • Failure of a required drug screen or failure to comply with the requested drug screen. • Sample is adulterated, invalid or substituted. • Failure of a drug screen for employment.
A2	Failure to Comply With Continuing Education or Competency Requirements	Fails to meet the continuing education or competency requirements for renewal or reinstatement.	Examples: <ul style="list-style-type: none"> • Failure to complete state requirements. • If the licensee falsified meeting the requirements, then also use Code E3.
31	Failure to Comply With Health and Safety Requirements or State Health Code	Fails to comply with federal, state, local or institutional safety requirements or state health codes.	Examples: <ul style="list-style-type: none"> • Failure to meet required health tests or inoculations. DO NOT use for: <ul style="list-style-type: none"> • Violation of infection control, sterile technique, and isolation requirements; instead use Code 17.
23	Failure to Cooperate With Board Investigation	Interferes with an investigation or disciplinary proceeding by withholding information, deliberate misrepresentation of facts or attempts to suppress evidence.	Examples: <ul style="list-style-type: none"> • Failure to respond or to respond adequately to board investigation requests. • Failure to cooperate with the board as a witness to an investigation.
50	Failure to Maintain or Provide Adequate or Accurate Medical Records, Financial Records or Other Required Information	Fails to meet documentation requirements for maintaining patient care, financial or other records.	Example: <ul style="list-style-type: none"> • Failure to provide adequate documentation of treatment/care in the medical record.
A1	Failure to Meet Licensure Requirements / Licensing Board Reporting Requirements	Fails to meet board specified licensing requirements or provide requested/ required information. NOTE: Do not report or include threshold criteria: the accepted minimum licensure requirements that are universally applied without decision or exception. Examples include academic degrees, criminality, certifications, or training hours or requirements.	Examples: <ul style="list-style-type: none"> • Failure to meet board requirements other than threshold licensure requirements. • Failure to provide information required by the board (e.g., criminal conviction, loss of job due to unprofessional conduct, disciplinary action in another jurisdiction, change of address etc.). • Failure to report any renewal and reinstatement requirements. • Failure to report another health care professional as required by mandatory reporting obligations. DO NOT use for: <ul style="list-style-type: none"> • Failure to meet threshold criteria: the accepted minimum licensure requirements that are universally applied without decision or exception. Examples include academic degrees, criminality, certifications, or training hours or requirements. • Continuing Competency requirements; instead use Code A2. • Obtaining a license but failing to disclose required information on the application; instead use Code E4.
37	Failure to Pay or Delinquent With Child Support	Fails to meet child support responsibilities.	Explanation: Use only if your state has this requirement.

Code	Description	Guidelines	Examples and Explanations
39	Disciplinary Action Taken by Another Federal, State or Local Licensing Authority	Grounds for action are based on action(s) taken by another state licensing, federal or other authority.	Examples: • A licensee is licensed in another jurisdiction and has final disciplinary action by that authority. DO NOT use for: • Your own jurisdiction's disciplinary action.
29	Practicing Beyond the Scope of Practice	Provides care not permitted under the terms of a license or within the licensee's level of education, training, knowledge, skills, experience or demonstrated competency.	Examples: • Performing practice interventions, whether advanced or not, without required license, certification or training. • Failure to work with adequate/required supervision. DO NOT use for: • Substandard or Inadequate Care for incompetence issues; instead use Code F6. • Negligence for not exercising reasonable judgement; instead use Code 13.
24	Practicing With an Expired License	Fails to renew license and continues to practice.	Example: • Failure to renew license intentionally or unintentionally and continues to practice. DO NOT use for: • A new graduate who fails the exam and continues to practice under a temporary license which expired on getting exam results; instead use Code A4. • Someone who has had their license revoked and continues to practice; instead use Code A4.
A4	Practicing Without a Valid License	Practices without obtaining the proper authorization.	Examples: • Failure to cease practice after a temporary license or permit has expired. • Applicant or licensee practices after passing the exam but before licensing authority has issued license. DO NOT use for: • Someone whose license has expired; instead use Code 24.
A6	Violation of Federal or State Statutes, Regulations or Rules	Violation of federal or state statutes, regulations or rules not associated with the practice act.	Examples: • Failure to meet alimony responsibilities. • Failure to report abuse or other federal or state requirement. DO NOT use for: • Violations of the state practice act. • Failure to meet child support; instead use Code 37.
36	Violation of Federal or State Tax Code	Fails to meet federal or state tax code responsibilities.	Example: • Failure to meet federal or state tax code responsibilities. Explanation: • Use with appropriate criminal conviction or adjudication code if applicable.
A5	Violation of or Failure to Comply With Licensing Board Order	Fails to comply with a specific board order.	Example: • Failure to meet terms of a board order.

Table 49 - Criminal Conviction or Adjudication

Code	Description	Guidelines	Examples and Explanations
19	Criminal Conviction	Convicted of a felony or misdemeanor crime	Example: • Convicted of a felony or misdemeanor crime Explanation:

Code	Description	Guidelines	Examples and Explanations
			<ul style="list-style-type: none"> • Use this code along with the appropriate code to describe the underlying violation of law. • If there is no appropriate code, describe the criminal conviction in the narrative.
18	Deferred Adjudication	Plea that avoids criminal conviction by meeting certain probationary requirements.	<p>Explanation:</p> <ul style="list-style-type: none"> • Deferred adjudication involves probation, treatment programs, and/or some type of community supervision. • Use this code along with the appropriate code to describe the underlying violation of law. • If there is no appropriate code, describe the violation in the narrative.
B1	Nolo Contendere Plea	Plea of no contest, same consequence as a guilty plea.	N/A.
11	Diverted Conviction	Pre-trial sentencing that avoids criminal conviction by completing a court ordered intervention program.	<p>Explanation:</p> <ul style="list-style-type: none"> • Pretrial sentencing includes participating in a treatment or rehabilitation program. • Use this code along with the appropriate code to describe the underlying violation of law. • If there is no appropriate code, describe the violation in the narrative.

Table 50 - Confidentiality, Consent or Disclosure Violations

Code	Description	Guidelines	Examples and Explanations
C3	Breach of Confidentiality	Releases or obtains patient information without appropriate Authorization.	<p>Example:</p> <ul style="list-style-type: none"> • Releasing or obtaining patient information without appropriate authorization.
C2	Failure to Comply With Patient Consultation Requirements	Fails to meet requirements for consultation with other health care providers or refer when appropriate.	<p>Examples:</p> <ul style="list-style-type: none"> • Failure to consult with or refer to an appropriate licensee when care is beyond the licensee's level of training, skill, expertise or license. • Failure to keep a referring source informed of the patient's progress.
C1	Failure to Obtain Informed Consent	Fails to meet informed consent requirements.	<p>Examples:</p> <ul style="list-style-type: none"> • Failure to explain procedures and possible complications. • Failure to obtain permission of the patient to evaluate and treat; as well as failure to obtain parental permission for a minor.

Table 51 - Misconduct or Abuse

Code	Description	Guidelines	Examples and Explanations
D4	Abusive Conduct Toward Staff	Engages in the maltreatment of a colleague or employee which can include mental, physical and/or verbal abuse.	<p>Example:</p> <ul style="list-style-type: none"> • Engaging in the maltreatment of a colleague or employee (i.e. mental, physical and/or verbal abuse). <p>DO NOT use for:</p> <ul style="list-style-type: none"> • Sexual abuse; instead use Code D1.
D7	Conduct Evidencing Ethical or Moral Unfitness	Engages in conduct that is unethical or violates the ethical code of conduct.	<p>Examples:</p> <ul style="list-style-type: none"> • Failure to respect the beliefs and values of patient without prejudice. • Failure to protect or disregards the rights, health, safety of the patient.
71	Conflict of Interest	Fails to disclose information that presents a conflict of interest.	<p>Examples:</p> <ul style="list-style-type: none"> • Failure to-disclose ownership. • Failure to provide freedom of choice.
D5	Disruptive Conduct	Engages in conduct which interferes with or disrupts normal	<p>Example:</p> <ul style="list-style-type: none"> • Interferes with or disrupts normal operations in the

Code	Description	Guidelines	Examples and Explanations
		operations in the patient care setting or workplace.	patient care setting or workplace. DO NOT use for: • Patient abuse; instead use Code 14.
D3	Exploiting a Patient for Financial Gain	Exploits a professional relationship with a patient to benefit financially beyond that which is reasonable for the provision of treatment.	Examples: • Takes advantage of the patient relationship by selling products that are not needed for treatment or could be obtained for a lower price. • Takes advantage of the patient relationship by inviting them into business opportunities. DO NOT use for: • Excessive or fraudulent billing; instead use Code 55.
16	Misappropriation of Patient Property or Other Property	Uses a patient's or coworker's property or the property of a facility without approval or permission.	Example: • Using or taking a patient's or coworker's property or the property of a facility without approval or permission. Explanation: • Also use Code 19 Criminal Conviction if there has been a criminal conviction. DO NOT use for: • Diverting medications from a patient; instead use Code H6.
D2	Non-Sexual Boundary Violation	Engages in a non-sexual relationship, behavior or boundary violation that involves exploitation or coercion of a patient or former patient and contains harmful or potentially harmful elements.	Examples: • Excessive personal disclosure, secrecy, reversal of roles or actions that meet the needs of the licensee (borrowing money). • Non-sexual relationship with a patient's significant other.
14	Patient Abuse	Engages in the maltreatment of a patient which can include mental, physical and/or verbal abuse.	Example: • Mental, physical and/or verbal abuse of a patient. DO NOT use for: • Sexual abuse or sexual assault; instead use Code D1.
D1	Sexual Misconduct	Engages in behavior that exploits the practitioner-patient relationship in a sexual way, or engages in workplace sexual harassment such as unwelcome sexual advances or conduct of a sexual nature which interferes with the performance of another person's job or creates an intimidating, hostile, or offensive work environment.	Examples: • Sexual exploitation of a patient. • Workplace sexual harassment. • Sexual assault. • Sexual abuse.

Federal Licensure, State Licensure or Certifications Actions (continued)

Table 52 - Fraud, Deception, or Misrepresentation

Code	Description	Guidelines	Examples and Explanations
E6	Failure to Disclose	Fails to disclose information that is required by the board.	Examples: <ul style="list-style-type: none"> • Failure to disclose criminal or disciplinary history on a license application. • Failure to disclose revenues generated from selling equipment or other financial relationships, etc.
E3	Filing False Reports or Falsifying Records	Fabricates patient, medical, health, employee, or other records.	Examples: <ul style="list-style-type: none"> • Failure to provide accurate patient, medical, health, employee, or other records. • Documenting treatment that did not occur . Explanation: Use this code in conjunction with A2 Failure to Comply with Continuing Education or Competency Requirements for falsifying licensee continuing education or competence records. DO NOT use for: <ul style="list-style-type: none"> • False billing for care/treatment; instead use Code 56.
E4	Fraud, Deceit or Material Omission in Obtaining License or Credentials	Provides false, altered or omits documents and information when applying for licensure.	Examples: <ul style="list-style-type: none"> • Provides false documentation in licensure application materials (transcript, letters, etc.). • Failure to disclose prior disciplinary action or criminal conviction on application. • Falsifies testing materials (cheating, trafficking, etc.).
55	Improper Billing Practices	Knowingly or intentionally bills improperly.	Examples: <ul style="list-style-type: none"> • Knowingly uses incorrect treatment or billing codes. • Charges unreasonable fees. • Intentionally overbills. DO NOT use for: <ul style="list-style-type: none"> • Conviction of insurance fraud; instead use Code E1.
E1	Insurance Fraud (Medicare, Medicaid or Other Insurance)	Convicted of Medicare, Medicaid or other insurance fraud,	Examples: <ul style="list-style-type: none"> • Convicted of Medicare, Medicaid or other insurance fraud. Explanation: <ul style="list-style-type: none"> • Use in conjunction with Code 19 Criminal Conviction.
E5	Misleading, False or Deceptive Advertising or Marketing	Uses misleading, false or deceptive advertising or marketing related to services, treatment, procedures or care.	Example: <ul style="list-style-type: none"> • False or misleading advertising related to license. DO NOT use for: <ul style="list-style-type: none"> • Failure to correctly identify credentials; instead use Code 81.
81	Misrepresentation of Credentials	Fails to properly identify oneself with regards to education, training, knowledge, experience, or skills.	Example: <ul style="list-style-type: none"> • Failure to properly identify education, training, knowledge, experience, or skills.
E2	Providing or Ordering Unnecessary Tests or Services	Orders or provides unnecessary tests, procedures, treatment or services.	Examples: <ul style="list-style-type: none"> • Overutilization of tests/services. • Providing unnecessary treatment.
56	Submitting False Claims	Requests reimbursement for services that did not occur or does not reflect the actual treatment provided.	Example: <ul style="list-style-type: none"> • Intentionally billing for interventions/care that did not occur. DO NOT use for: <ul style="list-style-type: none"> • Conviction for insurance fraud; instead use Code

Code	Description	Guidelines	Examples and Explanations
			E1. • Documenting treatments/care that did not occur or falsifying patient records; instead use Code E3.

Table 53 - Unsafe Practice or Substandard Care

Code	Description	Guidelines	Examples and Explanations
F8	Failure to Consult or Delay in Seeking Consultation With Supervisor/Proctor	Fails to provide or delaying proper consultation with supervisor or proctor.	Example: • Failure to consult with or report to a supervisor/ordering health care provider/proctor.
FF	Foreign Body Retained Inappropriately in a Patient	Leaves an item(s) inside a patient after a procedure that should not be there.	Example: • Retained foreign body refers to any item or foreign object related to any operative or invasive procedure that is left inside a patient. Common items include sponges and towels; retractors, unretrieved device components or fragments, parts of trocars, guidewires, catheters, and pieces of drains; needles and other sharps.
F1	Immediate Threat to Public	Presents an immediate risk to health or safety; Board uses emergency measures to remove a practitioner from practice.	Examples: • Emergency or summary suspension of a license. Explanation: • Use in combination with a code that best describes the violation.
17	Inadequate or Improper Infection Control Practices	Fails to conform to recognized standards or orders for infection control.	Example: • Failure to follow policies or procedures for infection control, sterile technique or isolation requirements. DO NOT use for: • Failure to comply with federal, state, local or institutional safety requirements or state health codes; instead use Code 31.
FA	Inappropriate Refusal to Treat	Refuses to treat a patient due to religious, moral or other reasons.	Example: • Refusal to treat a patient due to religious, moral or other reasons.
FE	Incorrect Site Procedure	Procedure performed on the wrong side or site of the body, wrong surgical procedure performed.	Example: • Performing an invasive procedure on wrong side of the body. • Performing a non-invasive procedure on the wrong side of the body, e.g. taking blood pressure on the side of an arteriovenous fistula.
13	Negligence	Fails to provide the skill, care and learning expected of a reasonably prudent health care provider.	Example: • Failure to exercise reasonable judgment. DO NOT use for: • Competence issue; instead use Code F6.
F9	Patient Abandonment	Terminates care without adequate notice for the professional relationship between a health care provider and a patient/client at a time when the patient needs further care.	Example: • Deserts or neglects a patient with whom there is an established provider-patient relationship without making reasonable arrangements for the continuation of care and without reasonable notice.
F6	Substandard Care or Inadequate Skill Level	Fails to meet clinical standards of practice, unable to practice competently or practicing with insufficient skill.	Example: • Failure to provide competent care. DO NOT use for: • Practicing beyond level of training; instead use Code 29.
F4	Unable to Practice Safely by Reason of Physical Impairment	Unable to practice safely by reason of physical impairment.	Example: • Failure/inability to practice safely by reason of physical impairment.
F3	Unable to Practice	Unable to practice safely by	Example:

Code	Description	Guidelines	Examples and Explanations
	Safely by Reason of Psychological Impairment	reason of psychological impairment.	• Failure/inability to practice safely by reason of psychological impairment.
F2	Unable to Practice Safely by Reason of Substance Use	Unable to practice safely by reason of substance use.	Example: • Failure/inability to practice safely by reason of substance use.
FG	Wrong Patient	Procedure or treatment performed on the wrong patient.	Example: • Performing an invasive procedure on the wrong patient. • Performing a non-invasive procedure on the wrong patient e.g. ambulating the wrong patient.

Table 54 - Improper Supervision or Allowing Unlicensed Practice

Code	Description	Guidelines	Examples and Explanations
G2	Allowing or Aiding Unlicensed Practice	Allows or assists someone practice without a license.	Example: • Knowingly allows unlicensed practice.
G1	Improper or Inadequate Supervision or Delegation	Fails to supervise adequately or properly those assigned to you.	Example: • Failing to supervise adequately or properly those assigned to you.

Table 55 - Improper Prescribing, Dispensing, Administering Medication/Drug Violation

Code	Description	Guidelines	Examples and Explanations
H6	Inappropriate Acquisition or Diversion of Controlled Substance	Diverts prescription medication from a patient or a healthcare facility with intent to sell, distribute or consume for personal misuse.	Example: • Removing a prescribed medication from a patient's inventory, unused portion, waste, trash or healthcare facility inventory for self or someone other than the patient.
H5	Error in Prescribing, Dispensing or Administering Medication or Sedation	Makes an error when prescribing, dispensing, or administering medications.	Examples: • Giving medication to the wrong patient. • Giving the wrong medication. • Giving medication at the wrong time. • Giving wrong dosage of medication. • Giving medication by the wrong route. • Improper storage of medication.
H1	Drug Violation or Other Violation of Drug Statutes	Controlled substance violation regardless of conviction.	Examples: • Controlled substance violation regardless of conviction. Explanation: • If there is a conviction, also use Code 19 Criminal Conviction.
H4	Inappropriate or Unauthorized Administration of Medication or Sedation	Administers medications improperly or without the appropriate prescription or medication order.	Example: • Failure to administer medications properly or without the appropriate prescription/order.
H3	Inappropriate or Unauthorized Dispensing of Medication	Dispenses medication improperly or without the appropriate authorization.	Example: • Failure to obtain authorization or prescription to dispense medication.
H2	Inappropriate or Unauthorized Prescribing of Medication	Improper prescribing or attempting to prescribe without authority or altering medication order.	Examples: • Forging signature on order/prescription. • Altering an order/prescription. • Failure to obtain prescriber authorization or signature.

Table 56 - Other

Code	Description	Guidelines	Examples and Explanations
99	Other - Not Classified, Specify, _____	Use only if no other code is applicable.	N/A.