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ROLE OF PHYSIOTHERAPISTS AND LEGAL CONSIDERATIONS IN DOMESTIC VIOLENCE CASES

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Abstract:

Domestic violence is a widespread issue affecting individuals across various demographics, leading to significant physical and emotional trauma. As frontline healthcare providers, physiotherapists often encounter patients who may be survivors of domestic violence. This underscores the importance of recognizing signs of physical abuse and understanding the legal responsibilities that accompany these cases.

Physiotherapists may have mandatory reporting requirements, particularly when they suspect abuse or violence. These legal obligations vary by jurisdiction but generally require healthcare providers to report suspected cases of domestic violence to appropriate authorities to ensure the safety of the victim. Alongside these legal responsibilities, ethical considerations play a crucial role in addressing domestic violence. Physiotherapists must navigate the delicate balance of patient confidentiality and the need to report suspected abuse, always prioritizing the well-being of the patient.

Recognizing red flags and being vigilant and educated on these indicators, they can initiate conversations with patients in a supportive manner, providing them with the opportunity to disclose their experiences if they choose to do so. Ultimately, by understanding the medical, ethical, and legal implications of domestic violence, physiotherapists can contribute significantly to the protection and support of survivors, fostering an environment where individuals feel safe to seek help and receive the care they need.

Introduction:

Domestic violence remains a widespread and pervasive social issue that affects millions of individuals across various demographics. It inflicts a lasting impact, leaving psychological, emotional, and physical wounds that transcend age, gender, and socioeconomic status. Although support services exist for survivors, there is still a significant gap in hospital settings, particularly within physiotherapy.¹⁰⁰⁹ Physiotherapists are uniquely positioned to identify and address domestic violence due to their close and regular contact with patients, many of whom may present with physical

injuries resulting from abuse. However, recognizing and assisting victims can be challenging. A lack of thorough education on the recognition of domestic violence and referral protocols often leaves physiotherapists ill-equipped to respond effectively, which can inadvertently trap victims in a cycle of abuse.

To break this cycle, it is essential to implement comprehensive training programs that educate physiotherapists about the signs of domestic violence and the appropriate steps to take when they suspect abuse. This training should cover how to create a safe environment for patients to disclose their experiences, understand legal obligations for reporting, and make effective referrals to support services. By

¹⁰⁰⁹ Tsopp-Pagan, P., Silent signs, critical role: why physiotherapists need training on domestic violence – Editorial, Eur J Physiother 26, 253-255 (2024).

equipping physiotherapists with the necessary knowledge and tools, we can enhance their role in identifying and addressing domestic violence, ultimately improving patient outcomes and fostering a safer environment for all survivors seeking help.

Incorporating domestic violence training modules into physiotherapy education curricula is essential for both entry-level students and those pursuing continuing education. Recognizing the critical role physiotherapists play in identifying and addressing domestic violence, these training programs must be an integral part of their professional development.

In response to the existing gap in education, the Online Professional Education for Physiotherapists and Other Healthcare Professionals on Domestic Violence (OPEP) initiative has developed a comprehensive online training resource focused on domestic violence diagnosis and referral protocols specifically for physiotherapists. This initiative aligns with the growing awareness of healthcare providers' potential to prevent domestic violence and support victims and survivors effectively.

By equipping physiotherapists with the knowledge and skills necessary to recognize the signs of abuse and understand appropriate referral processes, OPEP aims to empower them to intervene when they encounter patients experiencing domestic violence. This training not only enhances the quality of care provided to patients but also fosters a more informed and proactive healthcare environment. Ultimately, integrating domestic violence education into physiotherapy training is crucial for improving outcomes for survivors and promoting their safety and well-being.¹⁰¹⁰ This article examines the ethical and legal considerations physiotherapists must navigate when diagnosing physically abused individuals in domestic violence cases. By understanding

these factors, physiotherapists can play a pivotal role in breaking the cycle of abuse and ensuring the safety and well-being of survivors, ultimately contributing to a more supportive and informed healthcare environment.

I. Diagnosing domestic violence:

Physiotherapists must recognize the red flags of domestic violence to provide appropriate treatment, as misdiagnosis can perpetuate the cycle of abuse. Awareness of these warning signs allows physiotherapists to respond effectively, ensuring that survivors receive the necessary support and interventions. By tailoring treatment to address underlying issues, they can help break the cycle and promote healing for affected individuals.

- **Understanding Domestic Violence:** The nature of domestic violence (DV) and its various forms (physical, emotional, sexual and financial) should be thoroughly understood by physiotherapists.
- **Recognizing Red Flags:** Physiotherapists should receive training that enables them to identify physical and behavioural cues that may indicate abuse.
- **Communication Skills:** Important communication skills include using open-ended inquiries, establishing a safe space for disclosure, and developing a patient-centred approach.
- **Referral Protocols:** Training ought to address the current referral processes, which involve the police, local DV support programs, and other pertinent agencies.
- **Self-Care:** Physiotherapists should get self-care techniques in addition to patient education to help them deal with the emotional toll of seeing domestic violence cases.

A. Red flags of domestic violence

- **Unexplained Injuries:** Abuse may be indicated by recurring injuries, specific injuries in unusual places, or injuries with conflicting explanations.
- **Delayed Care-Seeking:** Individuals who have experienced trauma or loss may delay seeking

¹⁰¹⁰ Chebotareva, M., Milich, L., Pagan, H. C., Tamm, A. L., Sokk, J., & Looga, J., Beyond bones, joints and muscles: can physiotherapists have a role in identifying and supporting domestic violence victims?, Eur J Physiother 1–8 (2024).

help or offer unusual justifications for their discomfort.

- **Fearful or Deferential Demeanour:** Patients may display signs of anxiety, such as trepidation when they are with a companion or a reluctance to talk about their personal affairs.

- **Financial Dependence:** Financial constraints or trouble using their own resources may indicate that the abuser is using control mechanisms.

- **Mental Health Concerns:** Domestic violence may be linked to anxiety, sadness, or post-traumatic stress disorder (PTSD) symptoms.¹⁰¹¹

B. Mandatory Reporting Laws

Physiotherapists and other medical practitioners are mandated by law in numerous jurisdictions to report suspected cases of abuse to the authorities. This is particularly relevant when treating children, elderly patients, or vulnerable adults. Failure to report can result in legal consequences for the practitioner.

Mandatory reporting may be a useful toll in the criminal prosecution of domestic abusers. Records of domestic abuse occurrences can be very helpful in civil and family law cases as well as criminal prosecutions. Maintaining confidentiality, upholding patient autonomy, and enabling a customized presentation of the physician's findings based on the patient's history and physical examination are all achieved by recording the abuse in the patient's medical record. Thus, the medical record could offer a more thorough and reliable source of documentation required for legal processes.¹⁰¹²

Although it addresses concerns of privacy protection for victims of domestic abuse, the federal health privacy legislation established in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) does not supersede state laws that are more or less

protective of patient privacy. Regardless of whether they think reporting the violence is in the patient's best interest, doctors and/or other healthcare professionals are required to report instances of domestic abuse to an agency based on their unique circumstances.¹⁰¹³

Prior consent is not required for disclosing information about child abuse and neglect to juries, law enforcement, or administrative bodies.¹⁰¹⁴

The American Medical Association (AMA) suggested that patient identity protection and an option for competent people to choose not to disclose should be included in existing mandatory reporting laws.¹⁰¹⁵ In all states it is obligated for a physician to report to local child-abuse protective services if the victim is minor and Similarly if the victim is an elderly person or is disabled, physicians may be required to report the abuse under elder-abuse or abuse-of-the disabled statutes.¹⁰¹⁶

Mandatory reporting law of California has both advantages and disadvantages. Potential advantages include higher responsiveness of the health care system, better victim safety through improved police protection, better crime detection and data collecting, and release from the reporting burden for victims.¹⁰¹⁷

Potential disadvantages include the loss of choice over whether to involve the judicial system for abused women, reduced use of health care services, and revenge by abusers are possible drawbacks. Furthermore, when confidentiality is violated, there may be tension in the patient-physician relationship.¹⁰¹⁸

¹⁰¹¹ Tsopp-Pagan, P., Silent signs, critical role: why physiotherapists need training on domestic violence – Editorial, Eur J Physiother 26(5), 253–255 (2024).

¹⁰¹² Hyman, A., & Chez, R. A., Mandatory reporting of domestic violence by health care providers: a misguided approach, Womens Health Issues 5(4), 208–213 (1995).

¹⁰¹³ Iavicoli, L. G., "Mandatory reporting of domestic violence: the law, friend or foe?" Mt Sinai J Med 72(4), 228–231 (2005).

¹⁰¹⁴ The Family Violence Prevention Fund, Summary of new federal medical privacy protections for victims of domestic violence, (2002).

¹⁰¹⁵ Bauer, H. M., Mooney, D., Larkin, H., O'Malley, N., Schillinger, D., Hyman, A., & Rodriguez, M. A., California's mandatory reporting of domestic violence injuries: does the law go too far or not far enough? West J Med 171(2), 118–124 (1999).

¹⁰¹⁶ Faller, K., Unanticipated problems in the United States child protection system, Child Abuse Negl 9, 63–69 (1985).

¹⁰¹⁷ Hyman, A., Schillinger, D., & Lo, B., Laws mandating reporting of domestic violence: do they promote patient well-being?, JAMA 273, 1781–1787 (1995).

¹⁰¹⁸ Rodriguez, M. A., Craig, A. M., Mooney, D. R., & Bauer, H. M., Patient attitudes about mandatory reporting of domestic violence: implications for health care professionals, West J Med 169(6), 337 (1998).

C. Ethical Considerations and Act for Domestic Violence:

Survivors of domestic violence encounter significant barriers in accessing legal protection and navigating the justice system. Physiotherapists, through their regular and close patient interactions, can offer essential support by providing referrals and information. This assistance empowers survivors to exercise their rights and access legal resources, facilitating a more informed approach to seeking protection and justice.

1. Domestic violence Act:

The Protection of Women from Domestic Violence Act, 2005 enacted by the Government of India to protect women from domestic violence. It provides both civil and criminal remedies to women who face abuse in their domestic settings. The Act is designed to address all forms of domestic violence, including physical, sexual, emotional, economic, and verbal abuse. It focuses on protecting women's rights to a safe and secure home environment, free from violence and exploitation. It provides legal remedies such as protection orders and residence rights empowering women to seek justice.

Section 2¹⁰¹⁹ of this Act states that women should only can be the aggrieved person who is in domestic relationship with respondent can only claim in this Act. **Section 3**¹⁰²⁰ of this Act states the definition of domestic violence as any harms, harasses, injuries endangered the aggrieved person either physically or mentally. Further this section explains physical abuse as any act that causes bodily pain, harm and danger which assaults, criminal intimidation and criminal force. **Section 4**¹⁰²¹ of this Act states that the aggrieved person may inform the protection officer and liability exclusion for the informant. **Section 12**¹⁰²² of this Act states that

the victim, a protection officer, or any other person acting on their behalf may apply before the magistrate. **Section 17**¹⁰²³ of this Act states that every woman in domestic relationship has right to reside in shared household. **Section 18**¹⁰²⁴ of this Act provides protection order for aggrieved person that prohibits the respondent from committing any act of domestic violence, entering the aggrieved person's resident or workplace or attempting to communicate. **Section 20**¹⁰²⁵ of this Act directs the respondent to pay monetary relief to aggrieved person for the expenses and loses suffered due to act of domestic violence. **Section 31**¹⁰²⁶ of this Act states that if the respondent fails to comply with the protection order a fine of 20,000 or imprisonment or both could be imposed.

2. Confidentiality:

The Council on Ethical and Judicial Affairs emphasizes that physicians have a fundamental ethical obligation to maintain patient confidentiality. For victims of domestic abuse, confidentiality is crucial in fostering a safe environment where they feel comfortable disclosing sensitive information about their experiences. This trust is particularly vital, as victims may fear retribution or feel embarrassed and humiliated about their situation.

Creating a private space to discuss abuse allows physiotherapists to build rapport and encourage open communication. It is essential for healthcare providers to assure patients that their information will be handled discreetly, which can empower them to share their experiences more freely.

Additionally, physiotherapists have a responsibility to discuss their legal obligations regarding reporting suspected abuse. By doing so, they not only ensure compliance with

¹⁰¹⁹ The Protection of Women from Domestic Violence Act, 2005 § 2, No. 43, Acts of Parliament, 2005 (India).

¹⁰²⁰ The Protection of Women from Domestic Violence Act, 2005 § 3, No. 43, Acts of Parliament, 2005 (India).

¹⁰²¹ The Protection of Women from Domestic Violence Act, 2005 § 4, No. 43, Acts of Parliament, 2005 (India).

¹⁰²² The Protection of Women from Domestic Violence Act, 2005 § 12, No. 43, Acts of Parliament, 2005 (India).

¹⁰²³ The Protection of Women from Domestic Violence Act, 2005 § 17, No. 43, Acts of Parliament, 2005 (India).

¹⁰²⁴ The Protection of Women from Domestic Violence Act, 2005 § 18, No. 43, Acts of Parliament, 2005 (India).

¹⁰²⁵ The Protection of Women from Domestic Violence Act, 2005 § 20, No. 43, Acts of Parliament, 2005 (India).

¹⁰²⁶ The Protection of Women from Domestic Violence Act, 2005 § 31, No. 43, Acts of Parliament, 2005 (India).

regulations but also provide patients with the necessary information to understand their rights and options, ultimately contributing to their healing and safety¹⁰²⁷

3. Informed consent:

Competent adult victims of abuse must provide informed consent before receiving any non-emergency medical treatment. This includes interventions like scheduling referrals to relevant agencies or obtaining photos or radiographs of injuries. Encouraging consent while assuring patients of their safety and confidentiality is essential for building trust.

However, healthcare providers must respect patients' autonomy; if they refuse treatment, they should not be coerced into consenting. Instead, the focus should be on creating a supportive environment that empowers survivors to make informed decisions about their care, ultimately contributing to their healing process while respecting their rights and choices¹⁰²⁸

II. Conclusion:

Physiotherapists play a vital role in recognizing and addressing domestic abuse, making it essential for them to understand their legal obligations. This knowledge is crucial for protecting patients and ensuring compliance with mandatory reporting regulations. By staying updated on relevant legislative frameworks, physiotherapists can better support the safety and well-being of survivors while adhering to professional and ethical standards.

Adopting a trauma-informed approach is key, as it fosters a safe environment for patients, encouraging open communication and trust. Physiotherapists can identify signs of abuse through physical injuries or behavioural cues, allowing them to respond sensitively to patients who may be hesitant to disclose their experiences.

Additionally, physiotherapists can refer patients to appropriate resources, such as counseling and legal services, ensuring a comprehensive response to their needs. Integrating training on domestic abuse into their practice enhances their ability to recognize and address these situations effectively.

Ultimately, physiotherapists are crucial in identifying and addressing domestic abuse. Their proactive involvement not only aids in the healing process for survivors but also contributes to breaking the cycle of abuse, fostering a safer community for everyone.

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