



Fraudulent Billing and the Role of the Jurisdiction Licensing Board

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Jurisdiction licensing boards are in a unique position to identify fraudulent billing practices in physical therapy. Through its routine investigation and adjudication of complaints, which may include a review of the documentation and billing records, licensing boards have a major role to play in the detection of fraud and abuse in physical therapy.

A recent [article in the NY Times](#) reported and raised concerns over the Medicare billing practices in physical therapy. The article pointed out that Medicare payments to physical therapists are the 10th highest among 74 specialties. On average, physical therapists collected \$49,000 in Medicare payments in 2012. Those reaping much more caught the eye of many experts scouring the data.

In May of 2012, 107 [healthcare providers in seven cities were arrested](#) for fraudulently billing Medicare \$452 million, with physical therapy and home healthcare among the fraudulently billed services.

The cost of fraud, waste and abuse to the American public is staggering. A 2012 study published in the Journal of the American Medical Association (JAMA) (1) estimated that the cost of fraud, waste and abuse in the U.S. healthcare system for 2011 was as high as \$1263 billion.

These facts along with future and continued scrutiny of the federal government and others on billing practices should give pause and concern within regulatory boards of physical therapy.

Are we, as regulatory boards, adequately dealing with fraudulent and improper billing?

What regulatory guidelines or regulatory support could assist jurisdiction boards in relation to improper and illegal billing practices?

Licensing boards are charged with protecting the public by regulating a healthcare profession, establishing professional standards and interpreting professional regulation. This mandate is part of most jurisdiction practice acts and overall legislative mission statements.

The Federation of State Boards of Physical Therapy (FSBPT) [Model Practice Act for Physical Therapy, 5th edition](#) (MPA) outlines the legislative intent that a practice act “is enacted for the purpose of protecting the public health, safety and welfare.” As stated in the MPA, “only individuals who meet and maintain prescribed standards of competence and conduct may engage in the practice of physical therapy.”

Boards routinely protect the public from incompetent practitioners and have the statutory authority to do so.

But what about fraudulent billing practices including excessive billing, billing for services not provided, billing for services that are not medically necessary, or overutilization of services? It is our belief that jurisdiction licensing boards should find the applicable statutes and regulations that will allow for the adjudication of cases involving improper and illegal billing.

If your jurisdiction practice act contains some or all of the MPA language, then your licensing board has plenty of statutory authority to address fraudulent billing practices.

The MPA contains several appropriate sections and language to address issues of fraudulent and illegal acts by licensees.

These sections include *Patient Care Management*, Section 4.03 E & F, which state that the “... therapist’s responsibility shall include accurate documentation and billing of the services provided.”

Proper billing and documentation also can be related to prescribed standards of competence and conduct as defined within the *Definitions* Section 1.02:

“14. ‘Competence’ is the application of knowledge, skills and behaviors required to function effectively, safely, ethically and legally within the context of the individual’s role and environment.”

Section 4.01, *Ethics in the Physical Therapy Profession* states:

“A... therapist shall adhere to the recognized standards of ethics of the physical therapy profession as established by rule.”

Fraudulent billing practices include not only charging fraudulent fees for services that may or may not have been provided, but also includes providing services that are not medically necessary or overutilization of physical therapy services. These issues are directly addressed in the model practice act under the following paragraphs of Section 4.04, *Grounds for Denial of a License (and certificate); Disciplinary Action*:

“17. Providing treatment intervention unwarranted by the condition of the patient or continuing treatment beyond the point of reasonable benefit.

18. Participating in underutilization or overutilization of physical therapy services for personal or institutional financial gain.

19. Charging fraudulent fees for services performed or not performed.”

In today’s economic climate, regulatory boards need to be more vigilant and responsive on issues of billing. It is the duty and responsibility of the jurisdiction board, as indicated in Section 2.02 *Powers and Duties of the Board* to “... regulate the practice of physical therapy by interpreting and enforcing this [act]. “

Jurisdiction boards have within practice acts and support from the [Model Practice Act for Physical Therapy, 5th edition](#) (MPA) the statutory and legal authority to address illegal and improper billing. Jurisdiction boards have a responsibility to the public to ensure the safe, competent and legal practice of physical therapy.

Bibliography

1. *Eliminating Waste in US Health Care*. **Berwick, Donald M. and Hackbarth, Andrew D.** s.l. : JAMA, 2012, Vols. 307(14); 1513-1516.



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Joni Kalis is a physical therapist and has served the Federation in various capacities. She is a member of the Ethics and Legislation Committee, the past chair of the Foreign Educated Standards Committee, chaired the 2009 Bylaws Task Force, and was a member of the Supervised Clinical Practice Performance Evaluation Tool Task Force, NPTE Eligibility Task Force, and the 2011 NPTE Summit. She received the Federation’s Outstanding Service Award in 2009 and 2013. Joni served as Arizona’s Delegate for seven years and is a past president of the Arizona Board of Physical Therapy.