



This column addresses the legislative and regulatory activity and topics of interest currently being addressed in various jurisdictions. All of the following legislative activity discussed below is current status as of May 5, 2011.

The 2011 Legislative Session began with Maine opening on December 1, 2010 while Louisiana's session was the last to open in late April. The majority of states began their sessions in January and continue to be in session, although many are starting to wrap up. Thirty-two states, the District of Columbia, and the federal government are currently in session. Five states are in special session and three other states will have special sessions starting soon. Adjournment dates for the states can be found below.

Adjournment Dates

February: Virginia (02/27)

March: Wyoming (03/03), Kentucky (03/09), Utah (03/10), West Virginia (03/18), New Mexico (03/19), South Dakota (03/28)

April: Mississippi (04/07), Idaho (04/07), Maryland (04/11), Georgia (04/14), Alaska (04/17), Arizona (04/20), Washington (04/22), Arkansas (04/27), Montana (04/28), North Dakota (04/28), Indiana (04/29)

May: Hawaii (05/05), Florida (05/06), Iowa (05/06), Vermont (05/06), Kansas (05/10), Colorado (05/11), Minnesota (05/23), Missouri (05/23), Oklahoma (05/27), Texas (05/30), Tennessee (05/31)

Legislation of interest to our members

At the beginning of the legislative session, FSBPT staff culls through thousands of bills and identifies legislation that would be of interest to our members. We continue to track these bills and any new ones that surface, to keep abreast of what is happening in the physical therapy world. Similarly, proposed and final regulations that may impact physical therapy are tracked year round.

Direct Access/Removal of Referral Requirements

Since the last **State of the Jurisdictions** column, the Governor of Hawaii signed the new regulatory language drafted by the Board to give PTs full direct access in Hawaii and also address some issues like supervision requirements. Hawaii now has full and unrestricted direct access to physical therapy services.

A number of other states are attempting to remove or reduce the restriction to direct access in their statutes.

- Alabama's original bill was amended by the Alabama PT Association to add a 90-day restriction, and those amendments were favorably voted into the bill. However, the amended version will have to wait another two weeks before it will be voted on.
- California's bill was voted out of the initial committee, but has another committee to clear before coming for a vote to the full Senate floor.
- Indiana's struggle to gain some form of direct access was unsuccessful yet again.
- Michigan introduced their bill in early May and there has been no further action.
- Oklahoma has a bill pending to add direct access to physical therapists for the purpose of fitness and wellness.
- In Texas, the House health committee has voted the legislation out of committee.

Dry Needling

As of March 2011, Georgia was the first and only state to introduce a bill that would add dry needling to the practice act of physical therapists. The Georgia State Board of Physical Therapy had previously ruled that dry needling was in the scope of physical therapy practice. However, fairly new language in the acupuncture practice act specifically states dry needling is a technique of the practice of acupuncture.

As the practice of acupuncture is regulated in Georgia by the Georgia Medical Composite Board, and the Physical Therapy Board finds that dry needling is appropriate in the practice of physical therapy, the Board of Physical Therapy met with the Medical Board to discuss dry needling.

The boards seem to have found common ground as the Georgia Physical Therapy Association and the Physical Therapy Board worked to have legislation introduced that specifically includes dry needling as part of the definition of the practice of physical therapy. The Medical Board is not opposing this bill.

As of April 19, 2011 the bill (House Bill 145) had been adopted by both the House and Senate and was sent to the Governor for signature. As of May 5, 2011, although expected to do so, the Governor has not signed the legislation.

Dry needling is a topic we see in both legislation and regulation.

Louisiana's proposed rules on a variety of physical therapy changes include a definition and qualifications to perform dry needling.

Excessive Co-payments

In mid-March, Kentucky Governor Beshear signed legislation that would limit skyrocketing required copays for physical therapy. Senate Bill 112 protects consumers of physical therapy services in two ways.

The bill limits a copayment or coinsurance amount for a physical therapist or occupational therapist visit to no greater than the copayment or coinsurance amount charged to a patient for a physician or an osteopath for an office visit and requires insurers to clearly state the availability of therapies under their plans including all related limitations.

Physical therapy services were being categorized by managed care companies as specialty services, thus resulting in copays of \$50 to potentially as high as \$75 per physical therapy visit. Obviously, the financial burden on the patients was significant and often led to the patient self-limiting the number of visits based on what he/she could afford.

Regulation of PTAs

The Department of Regulatory Agencies (DORA) report went to the General Assembly for review and approval. Historically, the Legislature has highly respected the DORA report, so the majority of recommendations *including an independent PT Board* are expected to be implemented.

Interestingly, the original report did not include a recommendation for regulation of physical therapist assistants, however, the current version considered by the legislature does. If Senate Bill 169 passes, Colorado would begin to certify physical therapist assistants on June 1, 2012. Colorado was one of two states that does not regulate PTAs.

Other Regulatory Changes

The state of Ohio is now able to approve educational activities that do not require an Ohio approval number. This change will allow additional types of continuing competence activities to be approved in Ohio, increasing the licensee's flexibilities to meet their renewal requirements.

Kentucky will be adopting a new Code of Ethical Standards and Standards of Practice for PTs and PTAs.

Federal legislation

If enacted, the Medicare Access to Rehabilitation Services Act would permanently repeal the \$1,870 therapy "cap" imposed on physical therapy and physical therapy and speech-language pathology services for all outpatient settings, with the exception for hospital outpatient departments.

Alarmed by the Medicaid growth rate, approximately 7% per year for the next ten years, and the implications for increased enrollment and costs brought on by the federal health care reform act passed

last year, Governors across the country are concerned with the financial implications of running the Medicaid program in their state.

Many Republican governors have been vocal about their desire to turn Medicaid into a block grant program, significantly reducing federal influence and increasing the state's independence to run the program as they see fit.

Democrats are concerned that a move to block grants would cause a significant reduction to the enrollment eligibility.

Clearly for either party, as spending increases for the Medicaid programs, governors and state legislatures are desperate to find ways to cut costs yet maintain or improve quality care.

Legislative Tracking Reports

You will find the link to a map of the United States and a listing of the current legislation on the FSBPT website in the For Members section under For Review/Legislative and Regulatory Tracking. This link is automatically updated daily and will have the current status of the bill throughout the legislative cycle. Check back often to keep track!

Questions regarding the above legislative and regulatory issues or other Professional Standards issues can be directed to [Leslie Adrian](#), PT, MS, MPA, Director of Professional Standards at FSBPT.