Telehealth in Physical Therapy

Policy Recommendations for Appropriate Regulation
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Telehealth in Physical Therapy

Introduction
The Federation of State Boards of Physical Therapy (FSBPT or the Federation) is a membership organization whose mission is to protect the public by providing service and leadership that promote safe and competent physical therapy practice. Its membership comprises the 53 jurisdictional licensing boards in the United States.

Telehealth technology and applications are rapidly expanding. Telehealth technology often uses secure videoconferencing or ‘store and forward’ technology to allow interaction between the client and the healthcare provider. In some cases, such as when travel is difficult or there is no provider nearby, the use of the technology is preferable to a traditional (in-person) encounter. The provider, however, is responsible for making sure that the appropriate care can be delivered without in-person interaction.

Advancement in telehealth may be complicated by current regulatory and/or licensure policies. Requirements for in-person evaluations or supervisory visits are examples of regulations that may inhibit the potential use of telehealth in physical therapy. Concerns are often voiced in the regulatory arena about the misuse of physical therapist assistants (PTAs) or the potential for fraudulent and abusive billing. The ability to provide physical therapy services using telehealth technologies is also related to the current fragmented licensure system. Inconsistent licensure application requirements and the necessity to obtain a license in every state in which the physical therapist (PT or therapist) or PTA may practice are seen by many as potential barriers to telehealth practice. While researching licensure mobility, the FSBPT Ethics and Legislation Committee members and staff took note of the interest in telehealth in reference literature, legislative initiatives, popular media, as well as FSBPT member requests for information and resources regarding regulation of physical therapy services utilizing telehealth technology. As a first step, committee reviewed the existing 5th Edition of the Model Practice Act (MPA) language which defines telehealth as “the use of electronic communications to provide and deliver a host of health-related information and healthcare services (including physical therapy related information and services) over large and small distances.” As the committee further researched typical applications of telehealth in varied treatment settings, they found that the use of telehealth was growing significantly in the profession yet questions remained regarding the best practices for regulation.

The purpose of this document is to provide information and general guidance to physical therapy jurisdictional authorities for regulating the use of telehealth technologies in the practice of physical therapy. In developing these recommendations, the committee conducted a review of other professions’ models and best practices, telehealth nomenclature, published practice/clinical guidelines, and industry standards. Acknowledging the rapid growth in telehealth technology and applications, the guidelines in this resource were purposefully written in a general manner in an attempt to maintain future relevance and avoid the need for jurisdictions to continually revise statutes and/or regulations on this topic.
Current Telehealth Legislation and Regulation Specific to Physical Therapy

In preparing the following guidelines, the Ethics and Legislation Committee reviewed current and proposed legislative and regulatory language that might be useful to other jurisdictional authorities. At the time of review (2014), only three jurisdictions, Alaska, Kentucky, and Washington, had specific language regulating physical therapy practice using telehealth. Excerpts from the regulations are found below, and may be beneficial to jurisdictional authorities as they consider terminology and content of proposed regulations.

Alaska

Regulation: 12 AAC Chapter 54. Statutory Authority: AS 08.84.010

12 AAC 54.530. STANDARDS FOR PRACTICE OF TELEREHABILITATION BY PHYSICAL THERAPIST.
(a) The purpose of this section is to establish standards for the practice of telerehabilitation by means of an interactive telecommunication system by a physical therapist licensed under AS 08.84 and this chapter in order to provide physical therapy to clients who are located at distant sites in the state which are not in close proximity of a physical therapist.
(b) A physical therapist licensed under AS 08.84 and this chapter conducting telerehabilitation by means of an interactive telecommunication system
(1) must be physically present in the state while performing telerehabilitation under this section;
(2) must interact with the client maintaining the same ethical conduct and integrity required under 12 AAC 54.500(c) and (d);
(3) must comply with the requirements of 12 AAC 54.510 for any licensed physical therapist assistant providing services under this section;
(4) may conduct one-on-one consultations, including initial evaluation, under this section; and
(5) must provide and ensure appropriate client confidentiality and HIPAA compliance, establish secure connections, activate firewalls, and encrypt confidential information.

Kentucky


Section 1. Client Identity, Communication, and Informed Consent Requirements. A credential holder using telehealth to deliver physical therapy services or who practices telephysical therapy shall, upon an initial contact with the client:
(1) Verify the identity of the client;
(2) Obtain alternative means of contacting the client;
(3) Provide to the client alternative means of contacting the credential holder;
(4) Provide contact methods of alternative communication the credential holder shall use for emergency purposes;
(5) Not use personal identifying information in non-secure communications; and
(6) Inform the client and document acknowledgement of the risk and limitations of:
(a) The use of electronic communications in the provision of physical therapy;
(b) The potential breach of confidentiality, or inadvertent access, of protected health information using electronic communication in the provision of physical therapy; and
(c) The potential disruption of electronic communication in the use of telephysical therapy.

Section 2. Competence, Limits on Practice, Maintenance, and Retention of Records. A credential holder using electronic communication to deliver physical therapy services or who practices telephysical therapy shall:
(1) Be responsible for determining and documenting that telehealth is appropriate in the provision of physical therapy;
(2) Limit the practice of telephysical therapy to the area of competence in which proficiency has been gained through education, training, and experience;
(3) Document which physical therapy services were provided by telephysical therapy;
(4) Follow the record-keeping requirements of 201 KAR 22:053, Section 5; and
(5) Ensure that confidential communications obtained and stored electronically shall not be recovered and accessed by unauthorized persons when the credential holder disposes of electronic equipment and data.

Section 3. Compliance with State Law. A credential holder practicing telephysical therapy shall be:
(1) Licensed to practice physical therapy where the client is physically present or domiciled; or
(2) Otherwise authorized by law to practice physical therapy in another jurisdiction where the client is physically present or domiciled.

(1) Licensed physical therapists and physical therapist assistants may provide physical therapy via telehealth following all requirements for standard of care, including those defined in chapters 18.74 Revised Code Washington (LAW) and 246-915 Washington Administrative Code.

(2) The physical therapist or physical therapist assistant must identify in the clinical record that the physical therapy occurred via telehealth.

(3) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise:
   (a) "Telehealth" means providing physical therapy via electronic communication where the physical therapist or physical therapist assistant and the client are not at the same physical location.
   (b) "Electronic communication" means the use of interactive, secure multimedia equipment that includes, at a minimum, audio and video equipment permitting two-way, real time interactive communication between the physical therapist or the physical therapist assistant and the client.
Guidelines for Appropriate Use of Telehealth in Physical Therapy Practice

Responsibility for and appropriate use of technology

A PT is responsible for all aspects of physical therapy care provided to a client, including determining and documenting the extent to which the use of technology is necessary and appropriate in the provision of physical therapy. Additionally, the PT is responsible for assuring the technological proficiency of those involved in the client’s care. A client’s appropriateness for telehealth should be determined on a case-by-case basis, with selections based on the judgment of the clinician, the client’s informed choice, and professional standards of care.

Verification of identity

Given the fact that in the telehealth clinical setting the client and therapist are not in the same location, it is critical that the identities of the provider, client and assistive personnel present during the physical therapy appointment be established and shared with the client and therapist. Photo identification in the form of a government or employer issued ID is recommended for all parties who may be involved in the delivery of care to the client. Additionally, verification of the therapist’s physical therapy license should be available to the client.

Informed consent

Just as most PTs have traditionally obtained informed consent for face-to-face encounters, PTs should obtain informed consent for the delivery of physical therapy services via telehealth technologies. Informed consent is the process of communication between the PT and a competent client, or competent designee, during which the therapist and client discuss the examination and recommended plan of care. Upon gaining a clear understanding of the risks, benefits, alternatives to the proposed treatment plan and anticipated timeframes and costs, the client is enabled to make an informed and voluntary decision on whether or not to proceed with physical therapy care. Informed consent procedures should follow state law. Typically informed consent may be verbal, written, or recorded and the documentation of consent should be maintained in the medical record. The standard of care that is expected during face-to-face encounters is also expected for telehealth encounters.

Given the reliance on imperfect technology and the unique nature of the provision of services through telehealth, PTs may wish to include the following during the informed consent process:

1. Consent to being photographed, recorded, or videotaped and consent to the storage of the encounter data, if applicable. Disclosure should be made as to how long data will be stored.
2. Clients should be made aware of any limitations that telehealth services present as compared to a face-to-face encounter for that client’s situation such as the inability to perform hands-on examination, assessment and treatment.
3. Consent to release information from the client’s medical record to any other healthcare facility, provider to which the client’s care may be transferred, or to any third party payer for the purpose of obtaining payment of the account. Laws protecting the confidentiality of medical information also apply to telehealth, though there may be a potential for increased security risks with telehealth services.
4. Clients should be informed of the potential for failure of the technologies used to provide telehealth services. Consent procedures should include a hold harmless clause for medical or other information lost because of technology failures.

Physical therapist/client relationship
The provider/client relationship forms the basis of a client-centered approach to healthcare. There is little guidance in physical therapy literature regarding the establishment of the PT/client relationship, potential implications for client care management and liability risk. The relationship is established regardless of whether the care delivered was pro bono or for a fee.

As alternative delivery methods such as telehealth emerge, all parties involved (including regulators) must be mindful that the PT/client relationship may be established in the absence of actual physical contact between the PT and client. Though it may sometimes be difficult to determine the precise moment the relationship is established, the earliest beginnings are when the client agrees to be seen by the PT and consents to participate in the physical therapy appointment. It is solidly established when the PT affirmatively commences to evaluate, diagnose, and render treatment, including any advice or instructions to the client. The formation of the PT/client relationship is the point at which the therapist owes a duty of care to the client.

Clinical Guidelines for Use of Telehealth in Physical Therapy Practice
FSBPT has proposed the following guidelines for PTs and PTAs (subsequently referred to collectively as physical therapy providers) utilizing telehealth technologies in the delivery of client care, regardless of any pre-existing provider/client relationship.

These guidelines support a consistent scope of practice and standard of care regardless of the delivery mechanism. Guidelines, position statements, or standards for telehealth developed by a professional organization or society (e.g. American Physical Therapy Association (APTA)), should be reviewed and appropriately incorporated into practice.

Scope of practice
The following guidelines should not be construed to alter the scope of practice of physical therapy or authorize the delivery of physical therapy services in a setting or manner not otherwise authorized by jurisdictional authorities or regulatory agencies.

Licensure
Physical therapy providers delivering care using technology must be authorized by law (licensure or certification) to practice physical therapy in the state or jurisdiction in which the client is physically located during the PT/client interaction. Physical therapy care occurs in the jurisdiction in which the client is located at the time the technology is used. Although the provider should be licensed in the jurisdiction where the client is located and must adhere to the laws defining scope of practice in that jurisdiction, the provider should not be required to be physically located in that same jurisdiction.

Providers of telehealth services shall be aware of credentialing requirements at both the site where the
PT is located and the site where the client is located. The PT should ensure compliance with regulatory, credentialing, and accrediting agency requirements as applicable.

**Standards of care**

It is the responsibility of the PT to ensure the standard of care required both professionally and legally (in the jurisdictional practice act and rules) is met. As such, it is incumbent upon the PT to determine which clients and therapeutic interventions are appropriate for the utilization of technology as a component of, or in lieu of, in-person provision of physical therapy care. Physical therapy providers shall be guided by professional discipline and existing clinical practice guidelines when practicing via telehealth.

Physical therapy interventions and/or referrals/consultations made using technology will be held to the same standards of care as those in traditional (face-to-face) settings. Regardless of delivery method, a physical therapy examination and evaluation must be completed prior to providing physical therapy interventions.

The documentation of the telehealth encounter should be held at minimum to the standards of a face-to-face encounter.

**Guidelines for Privacy and Security in Physical Therapy Practice Using Telehealth Technologies**

**Privacy and security of client records and exchange of information**

Physical therapy providers should meet or exceed applicable federal and state legal requirements of medical/health information privacy, including compliance with the Health Insurance Portability and Accountability Act (HIPAA), the Health Information Technology for Economic and Clinical Health Act (HITECH), the Affordable Care Act (ACA), and state privacy, confidentiality, security, and medical retention rules. Sufficient privacy and security measures must be in place and documented to ensure confidentiality and integrity of identifiable client health information. Methods for protection of client health information include the use of authentication and/or encryption technology, and limiting access to need-to-know (availability for those people who do require access). Transmissions, including client email, billing, and treatment records, must be secure within existing technology (i.e. password protected, electronic encryption, or other reliable authentication techniques). All provider-client email, as well as other client-related electronic communications, should be stored and filed in the client’s physical therapy record, consistent with traditional recordkeeping policies and procedures. Providers are referred to “Standards for Privacy of Individually Identifiable Health Information,” issued by the Department of Health and Human Services (HHS). Guidance documents are available on the HHS Office for Civil Rights website at: [www.hhs.gov/ocr/hipaa](http://www.hhs.gov/ocr/hipaa).

Specific guidelines shall be in place to address access to client records so as to ensure that unauthorized users cannot access, alter, tamper with, destroy or otherwise misuse client information. Providers and their staff should be aware of the advanced requirements for privacy and confidentiality associated with provision of services through telehealth technology at both the originating site and remote setting. Steps should be taken to ensure compliance with all relevant laws, regulations and codes for technology.
The physical security of telehealth equipment and the electronic security of data storage, retrieval and transmission should be maintained. Some information that is specific to delivering services via telehealth technologies that should be communicated to the client include the use of information/communications transmitted via telehealth technologies and the utilization of any passive tracking mechanisms in the collection of information. Additional considerations may include providing clients with a clear mechanism to access, supplement, and amend client-provided personal health information, feedback mechanisms regarding the quality of information and services, and a means to register complaints to the therapist, employer, regulatory board, etc.

**Administrative guidelines**

Policies and procedures should be periodically evaluated for currency and be maintained in an accessible and readily available manner for review. Written policies and procedures should be maintained at the same standard as traditional encounters for documentation, maintenance, and transmission of the records of the encounter using telehealth technologies. In addition to privacy mentioned previously, policies and procedures should address topics such as the required client information to be included in communications, the healthcare personnel authorized to process electronic communications, and archival and retrieval of the data. Procedures should be written to ensure the safety and effectiveness of equipment through ongoing maintenance. Additionally, when relevant, infection control policies and procedures should be followed for shared, multi-user equipment. It is imperative that the physical therapy providers and/or the larger healthcare organization have quality-oversight mechanisms in place.

**Technical guidelines**

Physical therapy providers need to have the minimal level of understanding of the technology to ensure safe, effective delivery of care. Additionally, arrangements should be made to ensure access to appropriate technology support as needed. Providers should take appropriate measures to familiarize themselves with equipment and safety issues with client use. As is good practice with any equipment utilized, all providers should be fully aware of the capabilities and limitations of the telehealth technology they intend to use. All providers should have an appropriate plan prior to delivering services ensuring that the equipment is sufficient to support the encounter, is available and functioning properly, and all personnel using the telehealth equipment are trained in equipment operation and troubleshooting.

Physical therapy providers should have strategies in place to address the environmental elements of care including the physical accessibility of the treatment space as well as usability of equipment. This is essential in physical therapy telehealth applications as considerations must be made for clients who have a variety of impairments in areas such as fine/gross motor skills, cognition, speech, and language. Providers should also consider possible modifications to accommodate clients with visual or hearing impairments.

**Emergencies and Client Safety Procedures**
When providing telehealth services, it is essential to have procedures in place to address technical, medical or clinical emergencies. Emergency procedures need to take into account local emergency plans as medical emergencies will most often be handled through the typical chain of emergency procedures such as notifying the client’s emergency contact, notifying local physician, or calling local emergency first responders. Redundant methods of communication between both parties need to be established prior to providing telehealth services in case of technical complications. It is the responsibility of the provider to inform the client of these procedures; furthermore, it is the responsibility of the provider to have all needed information to activate emergency medical services to the clients’ physical location if needed at time of the services are being provided. If during the provision of services the provider feels that the client might be experiencing any medical or clinical complications or emergencies, services will be terminated and the client referred to an appropriate level of service.

Conclusion
Advancements in technology have created expanded and innovative treatment options for clinicians and clients while posing challenges to physical therapy regulators. The delivery of physical therapy services by or under the supervision of a physical therapist via telehealth is physical therapy, falling under the purview of corresponding state jurisdictional bodies and the respective practice act and regulations. Regulators must consider care delivered in this manner as physical therapy first, telehealth second and ignore any impulse to draft a new set of “telehealth” rules, instead relying on the existing regulatory framework for physical therapy.

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