This article is based on a presentation by Leslie Adrian, PT, DPT, MPA, Director of Professional Standards, Federation of State Boards of Physical Therapy; Linda Grief, Executive Officer, Montana Board of Physical Therapy Examiners; James D. Heider, Executive Director, Oregon Physical Therapist Licensing Board; Scott Majors, Executive Director, Kentucky Board of Physical Therapy; Chrisandra Osborne, PT, PDT, Board Member, Washington Board of Physical Therapy; and Connie Petz, Licensing Examiner, Alaska Board of Physical Therapy and Occupational Therapy at the 2017 FSBPT Annual Meeting.

Tackling Telehealth

States and jurisdictions considering telehealth should strive to keep the rules or legislation simple. Telehealth is a means to deliver physical therapy services; it is not a change to the scope of practice of physical therapists. Yes, regulatory boards need to do due diligence by researching their specific situation and collaborating with their specific stakeholders, but when it comes to the language, keep it simple and flexible.

There are common policy challenges shared by all jurisdictions when considering telehealth. Jurisdictions need to regulate without stifling technology, balance public protection versus public access, and write flexible enough regulations to keep up with the advances of technology advances. Additionally, the jurisdiction must determine answers to questions like “where does practice occur?” and “where does the PT need to be licensed?”.

Those are the lessons from some of the states that have moved forward with specific authorization of delivering physical therapy services via telehealth. From Alaska to Washington, Oregon, Montana, and Kentucky, the message is the same.

These jurisdictions do not view telehealth as a change to their scope of practice nor should physical therapists (PTs) be held to a different standard of care. The rules still maintain the same standard of care, whether the PT provides that visit in person or via telehealth. PTs providing physical therapy services through telehealth are still held to the same state and federal laws, which protect patient confidentiality, including HIPAA and HITECH compliance. Those rules pertain just as they would in any setting.

Still, regulatory agencies need to decide how to regulate the unique form of delivery without stifling the technology. There is a real need to balance public protection with public access. They need to determine how to keep up with technology advances when it often takes longer to get a rule published than it takes the technology to advance. The regulatory board should clarify for practitioners where the practice occurs and where the PT needs to be licensed.

Why Should You Consider Telehealth in Your Jurisdiction?
There are various reasons why jurisdictions decide to jump into telehealth. The Kentucky Board of Physical Therapy promulgated its telehealth regulation in response to legislation. In 2000, an Omnibus Bill was filed in the Kentucky legislature requiring all regulatory boards in the state to create telehealth regulations. Technology was in its infancy but the legislature saw where the future was going.

The Washington Board of Physical Therapy was approached by therapists inquiring if telehealth could be done. The board reviewed its practice act and determined telehealth is simply a tool that physical therapists can employ. The board saw telehealth as a method to improve access to physical therapy services and facilitate more integrated care, especially in situations where patients are separated geographically from specific specialists — a common problem in Washington, Alaska, and Montana.

The Oregon Physical Therapist Licensing Board reviewed the issue of telehealth for several reasons. The board's mission is tied to the safe and effective delivery of physical therapy services. Safe and effective delivery of services includes appropriate access to care, making telehealth high on the list of items the board wanted to review. Additionally, like Washington, Oregon had PTs inquiring about using telehealth as a method to treat patients. The Oregon board also was considering the Physical Therapy Licensure Compact and what that meant relative to having a Compact Privilege in the state. A Compact Privilege facilitates telehealth services as it allows physical therapists located outside of Oregon to more easily obtain the authorization to practice in the state. Oregon decided that to get ready for the Compact, the area of telehealth really needed to be addressed. The Affordable Care Act and its challenge to look for more innovative ways in breaking down barriers and providing healthcare in cheaper and more innovative ways also was a factor.

The Alaska Board of Physical Therapy and Occupational Therapy began researching telehealth in 2005 in response to a licensee inquiry; a physical therapist asked the board if they had to be on site and physically present when supervising an aid via telecommunication. The board confirmed that aids were required to have continuous onsite supervision, so that was not acceptable. However, that sparked the board's curiosity on video conferencing scenarios.

The main driver for the Montana Board of Physical Therapy Examiners to act on telehealth has been the Physical Therapy Licensure Compact. Montana had introduced the PT Compact and decided to consider telemedicine as well. The Board of Medical Examiners was tackling telehealth through legislation and the Board of Nursing was in the process of expanding its Compact, so the timing was right.

KISS Your Regulations
Telehealth relies on technology. Technology is notorious for changing monthly, weekly, or even daily. If jurisdictions become too prescriptive, they will have to rewrite the rules every quarter. That's the rationale behind keeping it simple.

Kentucky is among the states that struggled with that concept initially. Initially, the committee in Kentucky working on the regulations found itself caught up in the weeds and overthinking the concept of telehealth and wanting to make contingencies for every

possible situation. They were making the rules more complicated than necessary. Finally, they boiled it down to three simple areas. They needed to 1) verify the identity of the patient; 2) ensure the confidentiality of the information; and 3) obtain informed consent. To reiterate, telehealth is not a new service; it's simply a new method of delivering service. In the end, Kentucky's telehealth regulation is a half-page long; a very small part of the 30-page document that has all of Kentucky's statutes and administrative regulations for physical therapy.

Washington's rule also has three parts. The first part is that a licensed therapist can provide PT via telehealth, following all requirements for standard of care, including those defined in the previously promulgated rules. The second rule is a documentation standard that the board must identify that the therapy happened via telehealth. The third part of the rule defines telehealth, because it's the first time it shows up in Washington's rules. Washington defines telehealth to mean providing physical therapy via electronic communication, where the therapist and the patient are not in the same physical location.

However, Washington defines electronic communication a bit more restrictively. It states it's the use of interactive, secure, multimedia equipment that includes, at a minimum, audio and visual. The therapist still needs to have eyes on the patient. It's not a phone call, it's being able to see the patient through secure and compliant technology. It's further described as real-time, interactive communication using synchronous technology.

Oregon's committee also found itself traveling into the weeds and details. Committee members wanted to write rules about how you do it, where you do it, who you do it to, and what technology you use. Reviewing the literature, however, persuaded them to look at the big picture.

Tele-rehabilitation, the term adopted in Alaska, is discussed at every board meeting. Alaska's board prides itself on not overregulating. The process was simpler there and Alaska simply added six points in existing law.

Montana added only two sections in its practice act. But that came after much homework. Prior to moving forward with the legislation to specifically add and define telehealth to the practice act, not only did they identify their stakeholders, but also potential adversaries who could be against their bill. The Montana final statutory language follows:

> (7) "Physical therapy" means the evaluation, treatment, and instruction of human beings, in person or through telehealth, to detect, assess, prevent, correct, alleviate, and limit physical disability, bodily malfunction and pain, injury, and any bodily or mental conditions by the use of therapeutic exercise, prescribed topical medications, and rehabilitative procedures for the purpose of preventing, correcting, or alleviating a physical or mental disability.
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> (11) "Telehealth" means the practice of physical therapy using interactive electronic communications, information technology, or other means between a physical therapist in one location and a patient in another location with or without an intervening health care provider.

Homework is More Productive when Done with Likeminded People

Jurisdictions have found that collaboration is very important to success.

When the Kentucky board attempted to draft a regulation on telehealth, board members realized it was bigger than them, it was something in which they needed to involve their stakeholders. The board directed staff to contact the state professional association and the PT programs at the University of Kentucky and the Bellarmine University to recruit volunteers for a task force to look at the issue. Among those appointed to the task force were a representative from the Veterans Administration, appointed for the military perspective, and a student. The task force met for two occasions in the latter part of 2013. The second meeting was part of a regular board meeting, where the board convened, approved its minutes from the last meeting, and recessed the meeting. The telehealth committee then conducted its meeting for three hours while the board members sat in the public gallery and listened and watched. When that meeting was over, the board reconvened and discussed it as a board.

Oregon formed a volunteer Rules Advisory Committee, which included the initially interested parties who approached the board. The board also targeted known subject matter experts who had been using telehealth in Washington.

Montana had a surprise collaborator in the Montana Hospital Association (MHA). The board had discussed the issue with the MHA but had no idea they would become such huge advocates. The Montana Board also collaborated with key legislators who were highly motivated to get telemedicine legislation passed.

What You Need to Research and Cover

All the jurisdictions began with a review of current statutes and their jurisdiction rules and regulations. Montana discovered it needed to go the legislative route to incorporate PT telemedicine in its jurisdiction. Washington, Oregon, Kentucky, and Alaska, however, found they already had the authority under state law and only needed to add language to their rules.

Kentucky benefitted greatly by the telehealth regulations that had already been promulgated by Alaska and Washington. They were the trailblazers, and Kentucky relied on their legislation and statutes and their rules and regulations to serve as a model. Kentucky then made individual adjustments to fit the particulars of its state. Kentucky also reviewed the American Telemedicine Association (ATA) blueprint for tele-rehabilitation, something the Federation of State Boards of Physical Therapy's Ethics and Legislation Committee had studied carefully when authoring the resource paper discussed at the end of this article. The definitions of telehealth, consultation, and electronic communications in the Model Practice Act also were consulted.

Likewise, Oregon included the publications from National Telehealth Resource Network and Telehealth Alliance of Oregon in its research. They collected rule language from other Oregon health boards that had already implemented telehealth. Oregon also benefitted from the trailblazing states, which by then included Kentucky. They also researched Federation of State Boards of Physical Therapists (FSBPT) and American Physical Therapy Association (APTA) publications.

Next, jurisdictions need to decide what needs to be covered in the regulation in order to ensure the safety of the patient. Current statutory and regulatory language in law or rule must be reviewed to determine if the language is adequate or if language needs to be added to authorize practice via telehealth. Some of the areas to consider are the competence of the

PT to deliver services via telehealth technology, the security of the data and transmission, patient location, and patient safety.

Kentucky's regulation is among those that specifically states PTs who participate in telehealth must document that it is within their area of competence. They are subject to the same documentation requirements as any other physical therapy service they perform and must make sure the information is protected electronically. Technological security is not an issue in in-person practice. Face-timing or Skyping with a patient is not secure and it doesn't meet the federal guidelines for HITECH and HIPPA compliance.

In Alaska, follow-up treatments are conducted at Native Health Centers via video conference in a secure room at the clinic. A health aide or a nurse is present in the room when the patient is at that distant site. This is to ensure patient safety. Some jurisdictions require someone be in the room with a patient so if something happens, there is an immediate response.

Oregon wrote into its rules standards relative to following the federal guidelines for electronic communications. The board holds therapists providing telehealth responsible to know where their patients are and if there's an emergency on the other end, what steps they will take to ensure the patient receives care. It includes knowing the emergency contacts in the area and having someone with the patient.

Resources to Begin the Process

In addition to following the lead of jurisdictions that have already tackled telehealth, in April of 2015, the FSBPT board approved publication of *Telehealth and Physical Therapy: Policy Recommendations for Appropriate Regulation*. The resource paper has three major sections. The first is Guidelines for Use of Telehealth in Physical Therapy Practice. The next major section is Guidelines for Privacy and Security in Physical Therapy Practice Using Telehealth Technologies. This section includes administrative and technical guidelines for boards to consider. The third section contains Emergencies and Client Safety Procedures. It's available for download in the public section of the FSBPT website.

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Linda Grief is the Executive Officer for the Montana Board of Physical Therapy Examiners, a position she has held since 2003.

James D. Heider is the Executive Director of the Oregon Physical Therapist Licensing Board. In his 15 years with the Board, Jim has been instrumental in the recruitment, orientation, and development of several Public Members to the Oregon Board.

Scott Majors has served as Executive Director for the Kentucky Board of Physical Therapy since 2012. In July of 2017, Scott was appointed as Deputy Commissioner for the Department of Professional Licensing with Kentucky's Public Protection Cabinet, which has contracted with Kentucky's Physical Therapy Board to permit Scott to continue as its Executive Director on an interim basis. Scott has more than 30 years of experience working in state government with administrative boards, agencies, and commissions, with a focus on licensing and regulation, disciplinary procedures, administrative adjudication, and professional ethics.

Chrisandra Osborne, PT, PDT, is a physical therapist appointed to the Washington State Board of Physical Therapy in 2015. She received her DPT from Eastern Washington University in 2005. For the past 12 years, her focus of practice has been pediatric school-based therapy. She has taught CE courses on evidence-based practice in school-based therapy and has been a guest lecturer at PT programs in Washington. Telehealth has become of interest to her as she is passionate about improving access to physical therapy and recognizes the benefit of innovative technology as a platform to achieve that. Through her role on the board, she has furthered her study of telehealth through CE and collaboration, as Washington has recognized the use of telehealth in the practice of physical therapy since 2011.

Connie Petz is a Licensing Examiner for the Alaska Board of Physical Therapy and Occupational Therapy. Prior to beginning her career with the board, she was a licensed insurance agent for 12 years, a claims administrative assistant for seven years, with property management and banking prior to those. Alaska enacted its Telerehabilitation law on September 27, 2008, to increase access to clients in an area that spans 663,300 square miles with complex transportation issues. She works with the Alaska Board and they are revising regulations for telehealth service to increase access to clients.