

Healthcare Providers Service Organization Risk Advisor for Physical Therapists

Keep referring practitioners informed to protect against legal action

A surgeon refers a 55-year-old man for physical therapy following a hip arthroplasty. The man only showed up for therapy intermittently and did his exercises poorly, but the physical therapist (PT) failed to notify the surgeon. Subsequently, the man returned to his surgeon with complaints of pain, and it was discovered the patient had dislocated his hip. Unfortunately, the PT ended up being named in a successful lawsuit because he did not keep the surgeon informed of the patient's progress.

The referring practitioner's role in the care of the patient doesn't end with the referral to the PT. The PT is responsible not only for following the practitioner's instructions, but also for keeping the practitioner informed of changes in the patient's condition. Failure to do so could leave a PT vulnerable to litigation.

The cost of failed management

Allegations related to improper management over the course of a patient's treatment can result in high payments, according to *Physical Therapy Liability, 2001-2010*, a claim report from CNA HealthPro and HPSO. The average paid indemnity of \$119,618 for closed claims was 50 percent higher than the average paid indemnity of \$79,471 for all PT closed claims in all the categories examined.

Failure to report changes in the patient's condition to the referring practitioner represented the highest average paid indemnity (\$279,425), and failure to cease treatment when the patient experienced excessive or unexpected pain represented the highest total paid indemnity (\$2,649,500). Allegations in the areas of improper management over the course of treatment comprised 11.3 percent of

total closed claims. Most claims (29.6%) stemmed from failure to cease treatment with excessive or unexpected pain, followed by failure to follow the referring practitioner's orders (20.4%), improper management of the surgical patient (16.7%), and failure to complete a proper patient assessment (14.8%). Other allegations included failure to report a patient's condition to the referring practitioner, injury during training for assistive devices or equipment, and failure to refer or seek consultation.

Here are strategies you can use to ensure you manage patients appropriately and collaborate effectively with referring practitioners.

Follow the rules

Following standards, guidelines, laws, and regulations will help ensure patients receive the best possible care and help you avoid legal action. It's standard practice for the PT to keep the referring practitioner informed of the patient's progress and condition. This expectation is noted in the Code of Ethics for the Physical Therapists from the American Physical Therapy Association (APTA). For example, principle 3C states that PTs "... shall communicate with, collaborate with, or refer to peers or other healthcare professionals when necessary." APTA standards of practice reflect the need to keep referring practitioners informed in the section on communication, coordination, and documentation. Finally, the APTA position on referral relationships states, "When admission to a physical therapy service has been originated via a referral, this relationship places a **shared responsibility** (emphasis added) on the referring source and on the physical therapist to exchange all necessary information." Communication with

Tips for patient management

Follow these tips to ensure you keep referring practitioners informed.

- Contact the referring practitioner if you have any questions or need clarification regarding:
 - the patient's medical or postsurgical status
 - the requested treatment
 - signs and symptoms.
- Notify the practitioner of any findings from your examination that concern you.
- Stop treatment immediately if the patient has an adverse event and notify the referring practitioner.
- Report lack of expected improvement or negative changes in status to the referring practitioner. If necessary, refer the patient back to the practitioner or to a practitioner with the appropriate expertise.
- Follow up with the practitioner if you fail to receive a response to your concerns. If you still do not receive a response, follow the chain of command to notify the appropriate person.
- Send a copy of the plan of care and discharge summary to the referring practitioner.
- In the patient's health record, document notifications and conversations with the referring practitioner.

appropriate healthcare professionals is important whether patients are referred to physical therapy or are seen via direct access.

Record your actions

The most important source your defense attorney has to validate what you did is the patient's health record. Although finding time to document is a challenge for busy PTs, it's an essential step to defend yourself successfully should you be named in a lawsuit.

Here are specific items related to managing a patient over the course of treatment that you should be sure to document.

- your conversations with referring practitioners about changes in the patient status and outcomes from the discussions
- clarifications about the treatment order
- the details of any adverse events, including patient signs and symptoms, who was notified, and action



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- taken (you should also complete an incident report, but do not place it in the patient's health record)
- assessment findings and notification of the referring practitioner as needed
- the fact that if you did not reach the referring practitioner, you followed the chain of command to inform an appropriate practitioner
- referrals to other practitioners or therapists as warranted.

Of course, you should also follow basic documentation principles such as dating, timing, and signing each entry, and following the organization's policy if you have to make a correction.

In the loop

Managing the patient appropriately and keeping the referring practitioner informed of changes facilitate optimal care for patients. An APTA position statement notes that characteristics of autonomous PT practice include the "ability to refer to and collaborate with healthcare providers and others" and recognizing when the PT needs to request consultation. Using good professional judgment in your practice can help you avoid litigation.

RESOURCES

American Physical Therapy Association. Autonomous physical therapist practice. http://www.apta.org/uploadedFiles/APTAorg/About_Us/Policies/Practice/AutonomousPTPracticeDefinitionsPrivileges.pdf.

American Physical Therapy Association. Code of ethics for the physical therapist. http://www.apta.org/uploadedFiles/APTAorg/About_Us/Policies/HOD/Ethics/Codeofethics.pdf.

American Physical Therapy Association. Referral relationships. http://www.apta.org/uploadedFiles/APTAorg/About_Us/Policies/Referral/ReferralRelationships.pdf#search=refer.

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Wisconsin. Subchapter III. Physical therapy examining board. 448.56 Practice requirements. [https://docs.legis.wisconsin.gov/document/statutes/448.57\(2\)\(f\)](https://docs.legis.wisconsin.gov/document/statutes/448.57(2)(f)).

Evidence-based practice protects against litigation

As a physical therapist (PT) you have to make many decisions on therapeutic interventions every day. You also have to face the need to practice effectively in the face of limited resources. Basing your actions on the latest evidence is essential to ensuring optimal patient outcomes while protecting yourself from litigation should an untoward event occur.

Evidence-based practice (EBP) is a problem-solving approach that encompasses research, clinical expertise, and patient values and circumstances. Physical therapists should use information from these three components to make informed decisions.

Advantages of EBP include the ability to obtain an accurate assessment of the risks and benefits of various therapeutic approaches. Evidence-based practice also facilitates decision-making in situations where there are limited resources (for instance, the patient with no or little insurance) and in supporting your recommendations to other clinicians. Integrating EBP with your practice will improve the quality of your decisions and reduce your risk for legal action.

The gold standard

Evidence-based practice is accepted as the gold standard because it improves patient outcomes. For example, the 2003 Institute of Medicine (IOM) report *Health Professionals Education: A Bridge to Quality* states EBP is a core competency for healthcare professionals.

Additional support comes from a professional association such as the American Physical Therapy Association (APTA). An APTA position statement says the organization "...supports and promotes the

development and utilization of evidence-based practice that includes the integration of best available research, clinical expertise, and patient values and circumstances related to patient/client management, practice management, and health policy decision making." The organization's *Vision Statement for the Physical Therapy Profession* integrates EBP in several of its guiding principles. For example, the quality principle includes the following: "...generate, validate, and disseminate evidence and quality indicators..."

All this adds up to a consensus that EBP is a vital part of the profession. In a court case, an attorney will stress this fact while attempting to prove that you failed to engage in EBP. That's why your practice must be based on evidence, even though doing so can be challenging.

Barriers to EBP

A 2003 survey of PTs found that most respondents agreed or strongly agreed that EBP is necessary, improves the quality of patient care, and helps in decision-making, but they also identified time as the primary barrier. According to APTA, a more recent survey found that time is the greatest barrier to using research in practice. And a study in 2013 found that although PTs support EBP, many feel they lack the needed time, knowledge, and skills to engage in it.

Like other healthcare professionals, PTs also face barriers such as lack of mentors to help learn the EBP process and resistance from colleagues and managers. Fortunately, you can take steps to remove these barriers.

Overcoming the time barrier

Many resources are available to break this barrier, particularly when it comes to collecting and evaluating the evidence. You can save a lot of time by letting others do the work for you through clinical practice guidelines and systematic reviews. The first step is to check to see if there are current clinical practice guidelines on the topic, then look for systematic reviews. Here's where you can find these time-saving resources:

- Cochrane Database of Systematic Reviews (www.cochrane.org), which provides analysis of available literature related to a topic (some information available for free)
- National Guideline Clearinghouse (www.guideline.gov), which provides summaries of clinical practice guidelines and has a tool that allows you to compare multiple guidelines (free access)
- PubMed, which has a feature that allows you to limit your search to systematic reviews or meta-analysis articles (free access)
- Trip (www.tripdatabase.com), a clinical search engine where you can quickly find high-quality research evidence (free access)
- Joanna Briggs Institute (joannabriggs.org), which provides evidence reviews (some information available for free)
- General physical therapy journals and journals related to your specialty area of practice (requires subscription)
- Tools to help in critically appraising the evidence, including those from the Centre for Evidence Based Medicine (www.cebm.net) and the University of Minnesota (<http://hsl.lib.umn.edu/biomed/help/levels-evidence-and-grades-recommendations>). You might also want to review CONSORT (Consolidated Standards of Reporting Trials), an evidence-based tool to help assess the quality of the reports of trials and PRISMA (Preferred Reporting Items for Systematic Reviews and Meta-Analyses).

Download useful apps and databases on your smartphone or tablet so you can access them more easily. Consider joining APTA to gain access to members-only evidence-based practice resources such as PTNow (www.ptnow.org), APTA's evidence based portal that includes evidence-based clinical summaries, access to evidence-based tests and measures, links to close to 400 relevant clinical

Steps of evidence-based practice

Here are the basic steps of EBP:

1. **Cultivate** a spirit of inquiry.
2. **Ask** the clinical question in PICOT (Patient population, Intervention or Issue of interest, Comparison intervention or group, Outcome, and Time frame) format.
3. **Search** for and collect the most relevant best evidence. This includes searching for systematic reviews and meta-analyses.
4. Critically **appraise** the evidence for its validity, reliability, and applicability.
5. **Integrate** the best evidence with one's clinical expertise and patient preferences and values in making a practice decision or change.
6. **Evaluate** outcomes of the practice decision or change based on evidence.
7. **Disseminate** the outcomes of the EBP decision or change.

Source: Melnyk BM, Fienout-Overholdt E. *Evidence-Based Practice in Nursing & Healthcare: A Guide to Best Practice*, 2nd ed. Philadelphia: Lippincott, Williams & Wilkins; 2010.

practice guidelines, and access to full text articles from many scientific journals. The time you save will be worth the cost.

An often overlooked but highly valuable resource is the medical librarian. A medical librarian at your facility, local university, or health center can guide you through the process of conducting a literature search so it's more efficient.

Overcoming resistance

Overcoming resistance can be challenging. You can start by serving as a role model for others. Take the lead in suggesting practices that could benefit from a re-examination.

If you are also a manager, you might want to consider building EPB projects into physical therapists' job descriptions and evaluations. Another option is to partner with a faculty member at a local university.

Overcoming a lack of knowledge

You don't need a large budget to gain knowledge about EBP. You can access free self-study programs online. For example, staff at Duke University Medical Center Library and the Health Sciences Library at the University of North Caro-

lina at Chapel Hill developed an “Introduction to Evidence-Based Practice” tutorial, available online at <http://guides.mclibrary.duke.edu/content.php?pid=431451&sid=3529491>.

For tips on interpreting the information you find, access the “How to read a paper” section of the *BMJ* website, which contains article on how to read and interpret different types of studies and includes two articles related to statistics (www.bmj.com/about-bmj/resources-readers/publications/how-read-paper).

Another resource is the World Confederation for Physical Therapy, which provides links to helpful education information related to EBP (www.wcpt.org/node/29661). One of the listed resources is the PEDro tutorial, which uses some physiotherapy examples.

If your organization provides educational reimbursement, consider attending a workshop on EBP. Retain documentation of courses you complete so you can show evidence of your efforts should you be involved in a lawsuit. The evidence will also be helpful for career advancement.

Keeping up

Staying on top of developments in your field helps ensure you are aware of the latest research. You can use technology to make the process easier. For example, services such as Feedly (www.feedly.com) let you customize feeds of news stories related to your interest areas. You can easily scan the headlines and short descriptions to determine if you want to learn more. You can also sign up for news feeds from APTA.

Other options you might want to try:

- Sign up to receive electronic tables of content from journals you are interested in. You can scan the

table of contents to determine what’s of interest.

- Subscribe to electronic newsletters such as those provided by Medscape and JournalWatch.
- Listen to podcasts as you exercise or drive to work.
- Download an app such as Mendeley (www.mendeley.com) that lets you capture articles as PDFs and organize them according to keywords and other parameters.

Taking just these few steps can ensure that you are current in your knowledge.

Practicing effectively

Basing your practice on evidence will benefit patients by ensuring optimal outcomes and will benefit you by providing support for your decisions should you find yourself in the uncomfortable position of being named in a legal action.

RESOURCES

American Physical Therapy Association. Evidence-based practice. 2012. <http://www.apta.org/evidenceresearch>.

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Saver C. Keeping practice knowledge current. Part 1. *Nurse Pract.* 2012;37(12):1-5.

Weng Y-H, Kuo KN, Yang C-Y, Lo H-L, Chen C, Chiu Y-W. Implementation of evidence-based practice across medical, nursing, pharmacological and allied healthcare professionals: a questionnaire survey in nationwide hospital settings. *Implement Sci.* 2013;8: <http://www.implementationscience.com/content/8/1/112>.

Keeping resistance exercises safe

Resistance exercises and stretching are common interventions used by physical therapists (PTs) that have tremendous potential for enhancing patients’ lives. Because resistance exercises and stretching are basic treatments; however, it’s easy to forget that patient injury can occur. Unfortunately, that injury could put a PT at risk for a lawsuit.

By understanding possible consequences and taking a few simple steps, you can protect your

patient from harm and protect yourself from litigation.

Possible negative consequences

Improper prescription, instruction, progression, and modification, as well as resistance or stretching exercises, can have serious consequences, both clinically and financially. A claim report from CNA HealthPro and HPSO, *Physical Therapy Liability*

2001-2010, which analyzed claims with an indemnity payment of \$10,000 or more against PTs, found that “improper performance of therapeutic exercise” accounted for the highest total paid indemnity (\$10,600,774) for all categories of allegations. It also accounted for the most closed claims (26.5%). Improper technique accounted for more than one-third (35.4%) of closed claims for improper performance of therapeutic exercise, followed by injury during resistance exercise or stretching (17.3%) and injury during active resistance or assistive range-of-motion exercises (15%).

Resistance exercises and stretching also played a role in injury. Injury during resistance exercise or stretching (\$357,251 total paid indemnity) and injury during active resistance or assistive range of motion exercise (\$413,412 total paid indemnity) accounted for 9.4% and 7.5%, respectively, of closed claims, the third and fourth highest in the reinjury category. Be sure you take precautions so you don’t have a claim that ends up as one of these statistics.

Patient evaluation

Before beginning resistance exercises, evaluate patients for comorbidities and other factors that may affect their ability to exercise. Examples include deconditioning after extended hospitalization or recent surgery, cardiac conditions, side effects of medications such as impaired balance, pulmonary disease, and osteoporosis. And, of course, be sure that any exercise equipment the patient is going to use, such as bikes or resistance bands, are in good working order.

Effective patient education

Give patients clear, specific instructions about exercises that they are to perform at home. Have the patient demonstrate the exercise and provide written instructions and illustrations that patients can refer to later. Be sure to provide specific details about frequency, intensity, repetitions, and duration of exercises.

Tell patients what kind of clothing and footwear is appropriate and when they should cease the exercise (for example, when their pain reaches a certain level) and when they should seek help from a practitioner. Emphasize that exercises must be done correctly to avoid injury. Document the patient’s understanding of the information in the health record.

Delegating properly

Consider the following when directing a PTA to provide specific interventions under your supervision.

- Ensure that assigned interventions are within the PTA’s scope of work and that he or she is competent to perform them.
- Establish a process for ongoing communication about the patient’s progress and response to treatment.
- Follow your organization’s policies and procedures related to delegation.
- Understand that as the PT, you have primary responsibility for the patient.
- Monitor the patient’s response to therapy, including assessing progress and outcomes.

Keep in mind that communication is perhaps the most effective tool for establishing a partnership with the patient. Strong partnerships, including participation in setting goals, make it more likely that patients will follow instructions.

Direction and supervision

If you delegate resistance exercises or stretching to a physical therapist assistant (PTA), follow general direction and supervision guidelines. (See *Delegating properly*.) Remember that you have primary responsibility for the patient. Interestingly, the *Physical Therapy Liability* claim study found that like PTs, PTAs have experienced allegations related to these tasks. Injury during resistance exercise or training accounted for 4.1% of PTA closed claims, with a total paid indemnity of \$45,000. Injury during passive range of motion accounted for 10.2% of claims, with a total paid indemnity of \$30,000.

Be sure to provide appropriate direction and supervision to anyone involved in providing care and document this supervision in the patient’s health record, including instructions given and your own evaluations. Physical therapist assistants should also document the care that they provide in accordance with your state’s practice act. It’s also a good idea to routinely assess the PTA’s knowledge, skills, and abilities to ensure that he or she knows when to stop treatment and consult a PT should unanticipated pain or other adverse events occur.

Paying attention to the basics

By focusing on the basics of proper patient evaluation and education, along with appropriate delegation, you can reduce the likelihood that you will be named in a lawsuit related to improper resistance exercises or stretching and help your patient gain maximum benefit from therapy.

RESOURCES

CNA HealthPro, HPSO. *Physical Therapy Liability 2001-2010*. <http://www.hpso.com/resources/claim-studies.jsp>.

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