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Supervision

by Kathleen G. Johnson, MS, PT

As a physical therapist, a faculty member in both a PTA and a PT program, and now as a new member of the Physical Therapy Committee for the Medical Board, one of the most frequent discussions that I have with colleagues and students is about legal supervision in our state. In my experience, the majority of these discussions center around three basic questions: What is legal? What is ethical? What is reimbursable? To assist us in making the supervision decisions that confront most of us every day, it is critical to define which question we are asking.

I admit, it's not as easy as it seems. These three areas do overlap to some degree. For instance, a current point of discussion occurring at the national level concerns the ethics of billing for physical therapy services provided by a "tech" or an aide. In some environments, those services are reimbursable and in others they are not. For guidance in deciding what is ethical supervision of licensed and unlicensed people, our Code of Ethics guides us as professionals. In determining what is reimbursable, governmental regulations and the rules and regulations set out by third party-payers should be our primary source of information. As we all know, just because something is ethical and legal does not necessarily make it reimbursable—and vice versa!

For guidance in determining what legal supervision is, we must turn to Oklahoma Physical Therapy Practice Act, which is the actual law describing what physical therapy is and who may practice it, and the Oklahoma Administrative Code, Title 435, Chapter 20, known informally as the "Rules" which contains the details and administrative procedures that regulate practice. Our Practice Act charges us to practice in an ethical manner but has nothing to say about whether or not we can be reimbursed for it. My purpose in the following paragraphs is to provide some information about what constitutes legal supervision, according to the current law and rules in our state.

First, we must follow the law. The American Physical Therapy Association Code of Ethics requires us to practice legally and directs us to be familiar with state regulations regarding supervision and how it is defined and applied. Each state has its own set of laws and rules describing what constitutes appropriate supervision in that state. What is legal in one state may not be in another state. These regulations supersede any opinion on supervision that the professional organization may have.

How is supervision defined in Oklahoma?

Supervision in our state comes in two flavors: Direct on-site supervision and General supervision. **Direct on-site supervision** is "personal management and control of the clinical practice..." [Oklahoma Administrative Code, Section 435:20-7-1] In this case the PT is indicating that he or she is on the premises and available to provide direct supervision. The PT assigns specific tasks and interventions to another person and directs their implementation.

General supervision is the "responsible supervision and control of the practice..." [Oklahoma Administrative Code, Section 435:20-7-1] This type of supervision

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occurs in two instances. In the first case, the therapist either is routinely on-site or available by phone for consultation. An example of this type of arrangement is a PT supervising a PTA in an acute care facility. The PT is regularly scheduled there, but may be gone for a time. A licensed physical therapist is always available by phone to provide consultation.

In the second instance, when the physical therapist is not routinely scheduled to be there, a set of other requirements must be satisfied. *[See inset]*

General Supervision Requirements when the PT is not routinely on-site:

1) The supervising PT must assume responsibility for the patient care and participate in that care at some point.

2) The supervising PT must provide the initial examination and evaluation and delineate goals and a written Plan of Care before treatment can begin.

3) The physical therapist must review the Plan of Care and make necessary adjustments whenever it is appropriate for the particular practice setting, but at least every 30 days. These assessments must be documented in the medical record.

a. If the PT has made a good effort to review the plan and visit the patient, but for some reason was unable to do so (i. e. the patient was unavailable), the therapist must document that the effort was made. A resident of a nursing home receiving physical therapy treatment from a PTA is an example of this type of situation.

b. In some types of facilities where it is reasonable to expect that patient response to treatment will be predictable and the goals fairly long-term, treatment plans need to be reviewed by the supervising therapist at least every 120 days. Children receiving services in school or people being treated in long-term care facilities are examples of this circumstance.

4) Regardless of the treatment setting, the PTA will respond to changes in the patient's physiological state and response to treatment and report them promptly to the supervising therapist.

5) When patients are to be discharged from care, the therapist must approve the written discharge plan.

[OAC 435:20-7-1]

Who do physical therapists supervise?

According to our Practice Act, two groups of people require supervision by a physical therapist.

1) physical therapist assistants

2) persons who have completed their education and are working under a temporary letter prior to being fully licensed including those who have been licensed in another state coming to work in Oklahoma.

Fully licensed PTAs and PTAs working under a temporary letter must be supervised by a licensed physical therapist. This relationship is regulated by the infamous Verification of Supervision, or Form #5, which PTAs must keep updated and on file at the Board. By signing this form, the physical therapist is agreeing to be available to provide either direct on-site supervision or general supervision, according to the status of PTA's license/ temporary letter. The person who signs the Form #5 is the person who is attesting to proper supervision of that PTA in the facility where he or she works. If either the PT or the PTA changes employment, a new Form #5 must be filed.

The Practice Act also directs the PT to be responsible in setting the limits of liability for supervision. To insure that this happens, the Rules state that a physical therapist may not sign a Form #5 to be the direct clinical supervisor for more than three PTAs or applicants for licensure. This means that if a PT already supervises three PTAs in a facility, he or she may not be the direct supervisor of a new graduate or a foreign trained therapist working under temporary letters at the same time. There are exceptions to the rule, however, and a therapist may apply to the Physical Therapy Committee for permission to suspend this requirement temporarily.

As to the types of physical therapy activities and judgments that may be delegated to a PTA by a physical therapist, the Oklahoma law requires only that PTAs should undertake those procedures for which they specifically are trained and within their scope of practice. Issues of appropriate delegation of specific interventions need to be resolved between the physical therapist and the physical therapist assistant. The American Physical Therapy Association website is a good source for guidance in these discussions.

One of the most powerful statements in the rules charges both the supervisor and the person being supervised with the responsibility for maintaining legal supervision. In the absence of appropriate supervision, both parties are at fault and both licenses are at risk.

Other people who require supervision are foreign educated therapists seeking licensure in Oklahoma, therapists applying for licensure by endorsement from another state, people whose licenses have been lapsed or who have "emeritus" status and are wishing to re-enter practice, and new physical therapist or physical

therapist assistant graduates who are eligible to sit for examination. Although the time frames and requirements are different for each circumstance, these people all must work under Direct supervision unless otherwise authorized by the Board.

What about supervision of unlicensed people?

Our Practice Act is “silent” on the issue of aides, techs and students. Silence implies that this is an unregulated area of practice. However, the law is clear that physical therapists and physical therapist assistants are expected to use discretion and good professional judgment in assigning tasks to unlicensed people keeping in mind that only licensed individuals may provide physical therapy services. At the present time, the rules are being amended to include language regarding supervision of physical therapy aides. (See back page **Proposed Rule Changes**.)

“A physical therapist shall not delegate to a less qualified person any activity that requires the unique skill, knowledge, and judgment of the physical therapist.”
[Oklahoma Administrative Code. Section 435: 20-5-9]

For help in making decisions in the supervision of PTAs and unlicensed personnel, we are also guided by ethical advice from our professional organization. I refer you to the APTA website on “Appropriate Use of Physical Therapy Personnel-Supervision.” In her 1996 address to the APTA in The 28th Annual Mary McMillan Lecture, Bella May was particularly eloquent on this topic and I recommend it as well [May, 1996].

Guidelines regarding supervision of students are the prerogative of educational institutions and are regulated by school policies and contractual arrangements between physical therapy clinical sites and the school. Physical therapy programs have very specific language in their clinical education documents regarding what kind of supervision is required for student instruction. Most schools require direct, on-site supervision of students. Students are a short-term fixture in most clinics and consequently, it is somewhat impractical to make legal proclamations about their supervision. However, there certainly are ethical considerations in determining the extent of liability that exists when a physical therapist is supervising several PTAs, a person working under a temporary letter and a student at the same time. Clinical Instructors and the Academic Coordinator of Clinical Education from the school should work together to clarify what constitutes appropriate supervision in those cases. Our Practice Act requires only that we act ethically when we are supervising students in patient care environments.

In summary, the over-arching principle of the supervisory requirements in the Oklahoma Physical Therapy Practice Act and rules is protection of our patients from unsafe or unethical treatment and, at the same time, ensuring accessibility to physical therapy services. While professional ethics and other regulatory agencies influence our decision making, ultimately our Practice Act governs our day-to-day practice of physical therapy. It is incumbent on each of us, as professionals, to understand what is in the law and to operate within those boundaries.

Supervision Form #5 Laws and Rules

To download a Form #5 or the most current laws and rules, go to the Board's web site at:
www.okmedicalboard.org.

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PT Legislative Update

by Lyle Kelsey, Executive Director

Physician Assistants still need to obtain physician signature on PT referrals

(HB 1252) Proposed legislation to simplify the Physician Assistant – Physical Therapy referral process will not pass the Legislature this session because of concern over increased scope of practice issues. The bill would have allowed PA's supervised by MD's to be able to order physical therapy without the requirement of a counter signature of their supervising physician. While there was considerable support by the practicing MD's that supervise PA's, the issue of expanding the PA's scope of practice appeared to be the dominant negative factor. Consequently, the PA will need to obtain a physician signature on orders for physical therapy.

Individuals with Disabilities Education Improvement Act (IDEIA)

(SB 647) Proposed legislation to keep up with the on-going changes in the IDEIA Act, deletes "amendment of 1997" and adds the wording "as may be amended" to keep the physical therapy law current and applicable. (passed Senate in House committee on Health & Human Services)

Langston University's President Honored

Senate Concurrent Resolution (SCR) 19 congratulates Langston University President, Mr. Ernest L. Holloway, for his past 40 years of dedication to the university (25 years as president) and recognizes Langston's accreditation for the doctor of philosophy in physical therapy as one of his many accomplishments.

Physical Therapy and the Relationship of the PT and PTA

By Larry Crossland, PTA

With the referral of the physician, the physical therapist will evaluate, set goals and formulate a plan of care (POC) for the respective patient. In turn, the patient may be turned over to the physical therapist assistant for treatment. In the POC, the PTA has approved guidelines to follow in the treatment of that patient. The purpose of the POC is to ensure that the patient has the proper treatment provided to address the patient's condition. The PTA is bound by law and duty to conform to these guidelines (POC).

In the POC, the parameters of treatment and the goals of the patient are set forth, as well as a frequency of treatment. In the course of treatment, the PTA may recognize various successes and failures of treatment, and shall consult the PT immediately if the POC needs to be altered to better serve the patient. It is the decision of the PT, in accordance with the prescription given by the physician, to approve any changes to the POC.

In these discussions with the PT, the PTA must also **document** these discussions, and until the PT has approved any changes to the POC, the PTA will not perform any treatment that is not authorized in the **documented POC**. This is to ensure that the patient is receiving the proper care as set in the POC, and to inform any other interested individual or organization that the proper supervision and care is being conducted. Also, this documentation is to make aware any other therapist that may treat such patient in the regular therapist's absence.

Documentation is as crucial to patient care as the competent knowledge and treatment by the therapist since any omissions of documentation could possibly affect current or future treatments, to the detriment of the patient.

In short, the relationship of the PT and PTA is only as good as **the paper it is written on!**

Remember...if you didn't document it, it didn't happen...

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Medical Board Appoints New Committee Member

Kathy Johnson graduated from the University of Missouri-Columbia in 1970 with a B. S. in Physical Therapy. After graduation she worked as a staff therapist in St. Louis, MO, Norman, OK, Dallas, TX and Santa Fe, NM. While in Texas, Kathy worked as a Clinical Instructor and eventually became the Center Coordinator of Clinical Education in the Physical Medicine Department at Presbyterian Hospital Dallas, TX. Kathy moved back to Oklahoma in 1981 and began practicing at Hillcrest Medical Center in Tulsa. Although she considers herself a generalist, Kathy's area of interest in practice has been working with adults with neurological impairments.

In 1989, Kathy began teaching in the Physical Therapist Assistant Program in Tulsa Community College and undertook the duties of Academic Coordinator of Clinical Education in 1990 in addition to teaching neuroscience and basic therapeutic exercise. Kathy earned a Master of Science in Occupational and Adult Education from Oklahoma State in 1995 while teaching at TCC.

In 2003, she accepted a position as Assistant Professor at the University Oklahoma and undertook the responsibilities of the Academic Coordinator of Clinical Education for the Professional Program in Physical Therapy. In addition to directing the physical therapy education program, Kathy also assists in teaching Activity and Exercise for People with Chronic Disease and Evaluation and Intervention for Adults with Neurological Impairment.

In 1997, Kathy was chosen to join the first class of trainers selected by the American Physical Therapy Association to prepare to deliver the APTA Clinical Instructor Education and Credentialing Program. Since that time she has presented numerous programs and credentialed Clinical Instructors in Oklahoma, Missouri, Kansas and Arkansas. She has served as the President of the Central ACCE Consortium, a group of ACCE's from physical therapy programs in the 4-state region of Oklahoma, Kansas, Missouri and Arkansas. She continues to be an active member of that group.

Kathy has been a member of the American Physical Therapy Association for many years and is currently a member of the Section on Education and the Clinical Education Special Interest Group. She is an active member of the Oklahoma Physical Therapy Association where she serves on the OPTA Legislative Committee. In 2004 she began a three-year term as a member of the Physical Therapy Advisory Committee to the Oklahoma State Board of Medical Licensure and Supervision.

Kathy lives in Tulsa with her husband, Buz. They have a daughter, Megan, who is a graduate student at the University of Oklahoma in Norman and a son, Brian, who is a senior at Westminster College in Fulton, MO.

Why Increase CEUs?

By Olivia Feagins, MS, PT

In 2002, the Physical Therapy Committee recommended raising the number of required continuing education units (CEUs) from 20 hours to 40 hours each compliance period for PTs and to 30 hours for PTAs. This is now in effect for 2004-2005. People have wondered why the change and the reason is standards of competence have changed.

The Committee believed continued competence could be encouraged by learning through attending courses and self study programs of various kinds. In an effort to bring Oklahoma standards in line with other states that were requiring 50 hours per two-year compliance period, the Committee recommended the additional education hours. The Committee felt twenty hours was not sufficient for a two-year period. Doubling the number of hours would make Oklahoma's requirement commensurate with other states.

The American Physical Therapy Association has taken the position that professional development and continuing competency measurements of its members are in the best interest of the public. Because all physical therapy providers have a mandate to protect the public from poor or outdated physical therapy practices, the Committee made the decision to enhance the knowledge of licensees in Oklahoma through additional continuing education hours.

REMINDER

All PTs and PTAs licensed before January 1, 2005 must obtain continuing education by December 31, 2005.

PTs - 40 hours

PTAs - 30 hours

(Except for individuals previously notified by the Board that additional hours are required.)

Proposed Rule Changes

Continuing Education. In their April meeting, the Committee considered rule changes that would add jurisprudence and ethics course requirements to renewal and continuing education requirements. The proposed amendments will require three hours of ethics education that includes the APTA Guide for Professional Conduct and Code of Ethics. It also would require passage of a short jurisprudence exam at the time of license renewal.

The new requirements will not increase the total number of required hours and, if the rule passes, the requirements will not be implemented until the next compliance period.

Supervision. Other rule changes proposed were for rules relating to supervision. The amendments would clarify the PTs responsibility for supervision of PTAs and aides during the management of a patient's physical therapy care. Changes also set out the responsibilities of PTs who sign as alternate supervisors. The recommended changes will be effective in March 2006.

To see the proposed language, visit the Board's web site at www.okmedicalboard.org and look under Physical Therapy.

Deadlines Set for Submittal of Continuing Education Courses

Requests for approval of continuing education courses must be submitted at least ten days prior to the Committee's meeting to be considered at that meeting. Courses submitted after the deadline will be considered at the next meeting.

To cure a headache...

Kari Adams, P.T.A.

When moving you should always take care of change of address issues first. Make sure you notify everyone on your mailing list, including the Medical Board. This should include the date you will be moving as well as your new address. The local post office has change of address forms or you can save time by going online to www.usps.com. A little extra effort now can save you a lot of headache later.

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