

**DIRECT ACCESS:  
YOU CAN DO IT**

KPTA FALL CONFERENCE  
OCTOBER 1, 2010

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PRESIDENT, KANSAS PT ASSOCIATION

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**APTA VISION 2020**

• By 2020, physical therapy will be provided by physical therapists who are doctors of physical therapy, recognized by consumers and other health care professionals as the **practitioners of choice** to whom **consumers have direct access** for the diagnosis of, interventions for, and prevention of impairments, functional limitations, and disabilities related to movement, function, and health.

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**BENEFITS OF DA**

- Patient choice
- Reduced patient cost
- Improved outcomes
- Per the Mitchell study\*:
  - Shorter LOS (60% more visits for referred PT)
  - Reduced cost (123% higher for referred PT)
- Professional autonomy
- Clinic differentiation

\* "A Comparison of Resource Use & Cost in Direct Access Versus Physician Referral Episodes of Physical Therapy", Mitchell & Lissosky; PT Journal, Vol. 77, No. 1, January 1997; pp. 10-18

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**DA IS NEEDED!**

If patients are paying more for their care

**THEY SHOULD BE ABLE TO CHOOSE THE CARE THEY RECEIVE AND WHO PROVIDES IT!**

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**ARGUMENTS AGAINST DA**

- What do you think the arguments were that DA opponents typically used in the Kansas legislature?
  - Will miss cancer
  - Safety risk
  - Untrained
  - Insurance will not cover
  - Overutilization

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**BUT ISN'T DA RISKY?**

- ◆ Health Providers Service Organization (HPSO), the leading liability insurer of physical therapists in the United States, states in a January 3, 2006, letter:
  - ◆ "Direct access is not a risk factor that we specifically screen for in the underwriting of our program nor do we charge a premium differential for physical therapists in direct access states. We currently have no specific underwriting concerns with respect to direct access for physical therapists."

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### BUT IS DA PAID FOR?

- **YES !!!** DA services are paid for
- Surveyed 11 outpatient clinics and of those 9 are using the DA provisions
  - The 2 that are not are hospital-based
  - Of the 9 that are using the DA provisions, 2 are hospital-based, one is corporate, and the other 6 are private practices
- 8 of the 9 using DA have had no issues with payment

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### BUT IS DA PAID FOR?

- Since 2003 I have spoken to PT's in numerous states with DA and none have had any problems with payment for DA
  - Massachusetts
  - Maryland
  - Montana
  - Nebraska
  - Colorado
  - Etc.

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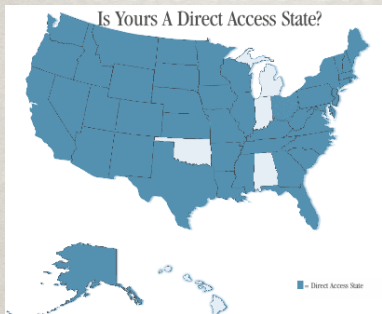
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### WHO HAS DA?



Source: [www.apta.org](http://www.apta.org) → Direct Access Resources

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# KANSAS DIRECT ACCESS

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## KANSAS DA

- Kansas direct access went into effect on May 17, 2007 after passage of SB 11
- Kansas language is contained in K.S.A. 65-2921
  - [www.ksbha.org/statutes/ptact.html#2921](http://www.ksbha.org/statutes/ptact.html#2921)
- See last page of your handout

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## K.S.A. 65-2521

- (b) Physical therapists may evaluate and treat a patient for no more than 30 consecutive calendar days without a referral under the following conditions:
  - (1) The patient has previously been referred to a physical therapist for physical therapy services by a person authorized by this section to approve treatment;
  - (2) the patient's referral for physical therapy was made within one year from the date a physical therapist implements a program of physical therapy treatment without a referral;
  - (3) the physical therapy being provided to the patient without referral is for the same injury, disease or condition as indicated in the referral for such previous injury, disease or condition;
  - and (4) the physical therapist transmits to the physician or other practitioner identified by the patient a copy of the initial evaluation no later than five business days after treatment commences.
- Treatment for more than 30 consecutive calendar days of such patient shall only be upon the approval of a person authorized by this section to approve treatment.

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### SHORT VERSION

- If a patient was referred to a PT within the last year and is coming to see you for the same condition, then you can treat for 30 days without a referral.
- A copy of the evaluation report is to be transmitted within five (5) business days to a physician of the patient's choosing
- A referral is required if care will exceed 30 days

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### WHAT ARE THE OBSTACLES?

- Those surveyed stated:
  - Assumption payment will not be there
  - Hospital/facility policy to secure a referral
  - Concern with physician acceptance
- What are the obstacles you are running into?
  - \_\_\_\_\_
  - \_\_\_\_\_
  - \_\_\_\_\_

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### OVERCOMING THE OBSTACLES

#### PAYMENT

- Only one facility surveyed had any issues with payment
- The rest reported no problems with payment for DA services
- Read your contracts – most have NO language regarding referrals
- Check insurer policies – most have NO language regarding referrals

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## OVERCOMING THE OBSTANCES

### HOSPITAL / FACILITY POLICY

- “We’ve always done it that way...”
- Takes advocacy and willingness to take a risk
- Secure support of power players within:
  - Hospital administration
  - Physician medical staff
- Request policy change in appropriate venue (medical staff committee, executive committee, etc.)

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## OVERCOMING THE OBSTANCES

### HOSPITAL / FACILITY POLICY

- KDHE policy requiring referral for PT services in a hospital
- KPTA secured in 2007 a letter from KDHE exempting hospitals from that requirement should they choose to use the DA provisions
  - Request a copy from the KPTA office ([kpta@kpta.com](mailto:kpta@kpta.com))

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## OVERCOMING THE OBSTACLES

### PHYSICIAN ACCEPTANCE

- Are concerns rooted in fact or assumption?
- I assumed at least some of our physicians would oppose, but I was pleasantly surprised to hear that they enthusiastically supported it
- If concerned, work to secure support of key medical staff
  - Primary care providers may be most supportive

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### PAIR-UP EXERCISE

- Group 1 → Payment
- Group 2 → Hospital Policy
- Group 3 → Physician Acceptance
  
- One person play the insurer, the hospital executive, the physician
- Other plays the PT advocating for DA
  - Practice your approach/argument(s)
- After 5 minutes, SWITCH SIDES

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### EXERCISE DEBRIEF

- What were the most common arguments of
  - the insurer?
  - the hospital administrator?
  - the physician?
- What arguments did you as the PT use?
- What resources do you need for your facility?
  - Documentation?
  - Scripting?

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### WHAT ABOUT WELLNESS?

- K.S.A. 65-2921 Section (c)
- Physical therapists may provide, without a referral, services which do not constitute treatment for a specific condition, disease or injury to:
  - (1) Employees solely for the purpose of education and instruction related to workplace injury prevention; or
  - (2) the public for the purpose of fitness, health promotion and education.

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## OPPORTUNITY

- The majority of firms offering health benefits (74%) offer at least one of the following wellness programs in 2010 (was 59% in 2009):
  - weight loss programs
  - gym membership discounts or on-site exercise facilities
  - smoking cessation programs
  - personal health coaching
  - classes in nutrition or healthy living
  - web-based resources for healthy living
  - wellness news- letter

Source: "Health Benefits in 2010", Health Affairs, October 2010, pp. 1-9

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## OPPORTUNITY

- Patient Protection and Affordable Care Act of 2010 contains provisions for Medicare to begin paying for some wellness services
- We have to have the law in place in our state before we can even consider using these provisions

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## PAIR-UP EXERCISE

- What wellness services does your facility already provide?
- What wellness services have you wanted to provide but didn't think you could?
- What concerns or obstacles do you have about using the wellness provisions?
- Can those obstacles be removed?

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### EXERCISE DEBRIEF

- What services are you providing now?
- What do you want to do?
- Concerns and/or obstacles?
- Ideas for how to remove the concerns and/or obstacles?

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### PEDIATRICS

- K.S.A. 65-2921, Section (d)
- Physical therapists may provide services without a referral to special education students who need physical therapy services to fulfill the provisions of their individualized education plan (IEP) or individualized family service plan (IFSP).

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### PEDIATRICS

- Kansas Medicaid began requiring a physician referral for all rehabilitation services in 2007 (wouldn't you know it?!)
- Previously OT and SLP did not require a physician referral
- Know your payor(s) before using in a pediatric setting with an IFSP or IEP

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**SO NOW WHAT?**  
HOW DO YOU PUT DA INTO USE IN YOUR CLINIC/FACILITY?

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**ACTION PLANNING**

- What holds you back from using DA in your facility/clinic?
- Are you ready to take the steps necessary to use DA?
- What else do you need?

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**ACTION PLANNING**

1. Secure support from clinic owner/director
2. Secure support from physician(s)
3. Secure support from executive(s)
4. Make a formal request per clinic/facility procedure
  - Supply with documentation
  - Be prepared to make your case
  - Use FACTS against fear

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## RESOURCES

- APTA website ([www.apta.org](http://www.apta.org)) → Direct Access Resource Center
- KPTA Legislative Committee → [www.kpta.com](http://www.kpta.com)
- **Mark Dwyer, PT, MHA**
  - President, KPTA
  - 913.205.7546 (Phone)
  - [markdwyer87@comcast.net](mailto:markdwyer87@comcast.net) (Email)

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LET'S DO THIS!

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**CURRENT DIRECT ACCESS LANGUAGE IN KANSAS PT PRACTICE ACT**  
[www.ksbha.org/statutes/ptact.html#2921](http://www.ksbha.org/statutes/ptact.html#2921)

Source: Kansas State Board of Healing Arts website, [www.ksbha.org/statutes/ptact.html#2921](http://www.ksbha.org/statutes/ptact.html#2921)

**65-2921. Evaluation and treatment by physical therapists; when referral is required; exceptions.** (a) Except as otherwise provided in subsection (b), (c) or (d), a physical therapist may evaluate patients without physician referral but may initiate treatment only after approval by a licensed physician, a licensed podiatrist, a licensed physician assistant or an advanced registered nurse practitioner working pursuant to the order or direction of a licensed physician, a licensed chiropractor, a licensed dentist or licensed optometrist in appropriately related cases. Physical therapists may initiate physical therapy treatment with the approval of a practitioner of the healing arts duly licensed under the laws of another state and may provide such treatment based upon an order by such practitioner in any setting in which physical therapists would be authorized to provide such treatment with the approval of a physician licensed by the board, notwithstanding any provisions of the Kansas healing arts act or any rules and regulations adopted by the board thereunder.

(b) Physical therapists may evaluate and treat a patient for no more than 30 consecutive calendar days without a referral under the following conditions: (1) The patient has previously been referred to a physical therapist for physical therapy services by a person authorized by this section to approve treatment; (2) the patient's referral for physical therapy was made within one year from the date a physical therapist implements a program of physical therapy treatment without a referral; (3) the physical therapy being provided to the patient without referral is for the same injury, disease or condition as indicated in the referral for such previous injury, disease or condition; and (4) the physical therapist transmits to the physician or other practitioner identified by the patient a copy of the initial evaluation no later than five business days after treatment commences. Treatment for more than 30 consecutive calendar days of such patient shall only be upon the approval of a person authorized by this section to approve treatment.

(c) Physical therapists may provide, without a referral, services which do not constitute treatment for a specific condition, disease or injury to: (1) Employees solely for the purpose of education and instruction related to workplace injury prevention; or (2) the public for the purpose of fitness, health promotion and education.

(d) Physical therapists may provide services without a referral to special education students who need physical therapy services to fulfill the provisions of their individualized education plan (IEP) or individualized family service plan (IFSP).

**History:** L. 2007, ch. 177, § 21; May 17.



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### APTA Comments Reflected in IPPS Final Rule

In response to comments submitted by APTA, the Centers for Medicare and Medicaid (CMS) will recognize physical therapist-ordered rehabilitation services in the hospital setting as permissible by state laws and scope-of-practice acts, medical staff authorization, and hospital policies and procedures, the agency announced late last week in issuing its **final rule** on the inpatient prospective payment systems (IPPS).

APTA expressed concern with language in the proposed rule in which CMS stated that there would be a conflict of interest when a physical therapist in a hospital setting orders physical therapy services. **APTA's comments** raised concerns as to the effect the language would have on physical therapist practice in the hospital setting. "In the outpatient hospital setting, it appears to make little sense for CMS to infer that a conflict of interest exists when a physical therapist, acting within their scope of practice, determines that a patient needs physical therapy services," said APTA. "... we agree that CMS should defer to state law with respect to which qualified licensed practitioners are allowed to order services, are responsible for the care of the patient, and are acting within their scope of practice under state law... and also continue to allow a hospital's medical staff, in accordance with hospital policies and procedures and state laws, to identify who may order rehabilitation services."

This policy, a victory for APTA members and the profession, will continue to enable innovative models of physical therapist practice to occur.

The final IPPS rule is scheduled for publication in the *Federal Register* on August 16.

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SEARCH

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## KPTA Q & A ON THE KANSAS DIRECT ACCESS PROVISIONS

### Page 1 of 3

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The Q and A references below are based on K.S.A. 65-2921 that can be found here ==> [www.ksbha.org/statutes/ptact.html#2921](http://www.ksbha.org/statutes/ptact.html#2921). This statute went into effect on May 17, 2007 when it was published in the Kansas Register.

**Q: I am a PT and work part-time providing PT services in a fitness center. If I have a man walk in who wants to see me for a general fitness program can I see him if he then tells me he had back surgery nine (9) months ago?**

A: If the fitness program he wants to receive were general in nature and not specifically for his back, then this would be fine. In addition, if his physician has released him and he has no restrictions in relation to his back injury, then you would be free to provide him with a general fitness program.

**Q: If a person comes into my clinic wanting an exercise program specifically for her shoulder that has been hurting for the past two weeks, can I give that to her?**

A: Based on the direct access portion of the statute, if this patient was referred by a physician (or anyone who can refer to PT's in Kansas) and was treated by a PT within the past year for the same thing, then you could see this person as a PT patient without her having to return to her physician first. Just be sure to send a copy of your evaluation to the physician within five (5) business days of the first visit as per the statute.

If a PT did not see this patient in the last year after being referred by a physician, then the recommendation would be to first refer this patient to her physician for workup. The reason is that she is seeking care for a specific condition and not general wellness education.

**Q: Do I still need to have a signed plan of care to bill insurance under the new limited direct access statute?**

A: Not unless you have an insurance contract that requires it, or if the insurer has a policy that requires you to submit a physician's referral. If you have no such requirements from your commercial insurers (e.g., non-Medicare insurers), then you should not need a physician's referral to receive payment.

Keep in mind that Medicare does require a signed plan of care (different from just a referral – refer to Medicare rules and regs) for up to ninety (90) days.

For children being treated under IEP's and IFSP's, if Medicaid requires a signed physician referral for payment then that would need to be secured by the PT.

**Q: If I have an IFSP for a pediatric patient, do I need to secure further physician referrals for PT? In addition, if an IEP specifies that PT is required, do I need to secure a physician referral?**

A: Since you have an IFSP in place for this child, you may provide PT services without referral. The statute does not say that the IFSP applies only to those required for the Department of Education. As far as your second question, a PT referral is not required for special education students if the IEP specifies that PT is required.

Keep in mind, however, that if your *payor source* (e.g., Medicaid) requires a physician referral in order for you to be reimbursed, then you will need to secure a physician referral.

**Q: How do I know if the first PT who treated the patient for shoulder pain used the same diagnosis code that I selected after the evaluation for recurrent shoulder pain?**

A: If you or a therapist in your clinic did not treat the patient, it is recommended that you contact that PT to determine what s/he treated the patient for. If that is not possible, you could contact the physician who referred the patient to get that information. Keep in mind that you may have to have the patient sign a Release of Information in order for those clinics to feel comfortable giving you any information given HIPAA rules/regulations.

**Q: If the patient had a referral from a physician for PT dated June 12, 2009 but didn't start PT treatment until July 15, 2009, can I start to treat again for the same problem as of July 1, 2010?**

A: No, your one year period would have ended on June 12, 2010. The statute reads, "The patient's referral for physical therapy was made within one year from the date a physical therapist implements a program of physical therapy treatment without a referral." As such, since the physician *referral* was dated June 12, 2009, the one-year period following that referral would end on June 12, 2010. In order to begin treating that patient after June 12, 2010 another physician referral would be required.

However, if in 2009 the PT received a *second* referral dated July 20, 2009 for the same condition, then it would be OK for the PT to use direct access for the same condition on July 1, 2010.

**Q: If the previous therapy referral was for motor planning problems in a patient with Parkinson's disease and the patient fell six months later without any fracture but does have joint pain, can the joint pain and soft tissue pain be treated since the cause is from the imbalance and motor problems of the Parkinsonism?**

A: If you are treating the pain specifically and not the symptoms of Parkinson's then you should first refer the patient to a physician for workup.

If the scenario changed to the patient falling without injury and he wants to return to therapy to improve his gait and balance skills to prevent future falls, then you can treat this patient

again without a physician referral since it falls within one year from the date of the last physician referral for the same problem.

**Q: Regarding the requirement to send documentation to the physician within five (5) business days of evaluating the patient, what if the patient is in the process of changing physicians and has not yet seen the new PCP (has an appointment scheduled but is more than five days from the PT evaluation visit)? Do we still send the notes to the new PCP even though the patient does not have a chart there yet, or to the past physician or both?**

A: The statute states that the PT should transmit the report “to the physician or other practitioner **identified by the patient**”. As such, the PT should send the report to whomever the patient wants it sent to.

**Q: I have been treating a patient who fits the parameters of the access language in the statute (referred by a physician for PT, was seen for PT within the past year, etc.), however, this patient has only one visit left but it falls on day 31 since her PT evaluation visit. Since it is so close to the 30-calendar day cutoff, can't I just finish her course of PT without getting a physician referral?**

A: No. The statute is clear in that the period a patient can be treated without a physician referral is thirty (30) consecutive calendar days from the date PT was initiated. There are only two options: 1) change the patient's appointment so it falls on day 30 or before, or 2) secure a referral from her physician (or other provider allowed to refer to PT in Kansas).

**Q: I have been asked to perform a workstation analysis for a computer technician who has carpal tunnel syndrome. One request is for me to establish a PT exercise plan for him specifically for his carpal tunnel syndrome. Can I do that under this statute?**

A: Wellness services can be provided without a referral when they “do not constitute treatment for a specific condition, disease or injury”. Since the request above is for a PT exercise plan (e.g., treatment) for a specific condition (carpal tunnel syndrome), that would fall outside the parameters of this statute and a physician referral would need to be secured.

If the request was for a workstation analysis to establish appropriate ergonomics so as to *avoid* the computer technician developing carpal tunnel syndrome, that that is allowable under this statute.