



This column reviews the legislative and regulatory activity and topics of interest currently being addressed in various jurisdictions. All of the following legislative activity discussed below is current as of April 23, 2014.

Specific topics discussed in this article are practice act updates, ordering X-rays, manipulation, dry needling, referral requirements (direct access) and Medicare payments.

The 2014 Legislative Session began with Indiana opening on November 19, 2013 while North Carolina will not open the session until May 12, 2014. As this is an even year the following jurisdictions have no regular 2014 session: Montana, Nevada, North Dakota, and Texas. The following states have full time legislatures that meet year round varying start and stop dates for the session: Illinois, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Wisconsin.

Virgin Islands Practice Act

The Virgin Islands Physical Therapy Practice Act has not been changed or updated since its original passage in 1969. While practice acts within other jurisdictions in the United States have undergone multiple revisions during this time and made substantive changes to reflect current practice, the Virgin Islands Physical Therapy Practice Act has remained stagnant; it does not reflect any changes in the profession of physical therapy in the last 40 years.

Bill Number 30-0102, an Act to revise Title 27 Virgin Islands Code, chapter 1, subchapter VIII, governing the practice of physical therapy was introduced into the Virgin Islands Senate as a joint effort between the Board and local interested physical therapists. The revised version of the Virgin Islands Practice act is based on the FSBPT *Model Practice Act for Physical Therapy* (MPA), which reflects current best practice in the definition of and regulation of physical therapy practice in the United States.

The Board Chair, Angelica Schuster, PT and FSBPT staff as well as a Virgin Islands born local physical therapist, and representatives of the chiropractic and medical boards all testified in regard to the bill. Several amendments were brought to the Senate for consideration and as there was no quorum on that date, the bill will have to be voted on in the future.

FSBPT believes this revised practice act would finally bring the practice of physical therapy in the Virgin Islands up to date. It allows licensed physical therapists to perform at the full scope of their education, training and ultimately, their capabilities. Finally, it allows the citizens of the Virgin Islands greater access to the education, training and experience of a licensed physical therapist.

Ordering X-rays

AB 658 and SB 496 in Wisconsin add licensed physical therapists to this list of licensed medical professionals authorized to prescribe or order the use of diagnostic X-ray equipment. Prior to the passing of 2009 Act 106 creating the Radiography Examining Board that included the authority to order x-rays for several other professions, PTs were ordering X-rays in WI without issue. PTs were not included and neither the Board nor the Chapter realized the omission until the bill was passed into law.

Manipulation

Washington was finally successful in making some inroads to allow physical therapists to perform spinal manipulation. This is the first positive movement in a longstanding, multi-year battle between the PT and chiropractic community which has had very strained relations in recent years. On March 28 the Governor signed HB 2160 into law with an effective date of July 1, 2015. See the full text of the law here. <http://apps.leg.wa.gov/documents/billdocs/2013-14/Pdf/Bills/Session%20Laws/House/2160-S.SL.pdf>

Dry Needling

On April 1, 2014 the Governor of Utah signed HB 367 into law which adds dry needling specifically to the PT Practice Act with stipulations for the required experience and education.

Arizona's SB 1154 defines dry needling and gives as a ground for disciplinary action: failing to adhere to the professional standards established by the Board with regard to dry needling. On or before 7/1/15 Board must write rule to explain educational requirements and the professional standards. This law would go into effect on June 30, 2015. There are provisions to allow a physical therapist who was performing dry needling as a therapeutic modality before January 1, 2014 to continue until the board adopts standards of care and training and education qualifications; at that time, they are required to meet the standards and qualifications adopted by the board. The bill has passed the Senate and the House and will be sent to the governor for signature.

In Louisiana, the State Board of Medical Examiners requested an Attorney General's opinion to determine that dry needling is not within the scope of practice of physical therapists or chiropractors. There has been no response from the AG office since the request was sent on March 6.

The Tennessee PT Board also has requested an opinion regarding dry needling and PT scope of practice from their AG office.

Referral Requirements (Direct access)

Louisiana: HB 1064 would eliminate the restrictions on direct access in that state.

Michigan: SB690 would allow direct access with restrictions. The bill passed the committee and is now going to the full Senate for a vote. The related bill, HB 5356 would also remove the referral requirement for physical therapy services. However, four other related bills in the House allow insurers to withhold reimbursement unless a patient has a referral from a licensed health professional.

Oklahoma: SB 1778 and HB 1020 have both passed their respective chamber and with widely disparate language will now go to conference committee. The House Bill allows for unrestricted direct access whereas the Senate Bill permits individuals to access physical therapy without referral under certain conditions.

Federal Sustainable Growth Rate Formula Fix

Congress looked poised to finally make a meaningful change to the Sustainable Growth Rate (SGR) for Medicare, accepted by both parties in the House and the Senate to be a flawed method of controlling spending on providers paid under the Physician Fee Schedule.

The SGR was enacted by the Balanced Budget Act of 1997 and quickly showed the limitations in the formula. The intent of the SGR is to keep the annual cost increase for each Medicare beneficiary below the growth in the country's gross domestic product in the same year. The formula includes a conversion factor that determines the increase or decrease in payment for provider services in order to hit the target for the SGR for that year. When expenses for the previous year are above the target, provider payment rates are decreased the next year to make up the difference.

In recent years, the cuts in payments determined by the SGR were so large that it would have been unrealistic to expect providers to continue to accept Medicare payments for services.

Concerns that providers may drop Medicare beneficiaries led Congress to make annual last-minute fixes to the SGR to avoid these reductions. This year was no exception. Although the House passed the **SGR Repeal and Medicare Provider Payment Modernization Act of 2014**, aspects of the bill made it non-viable in the Senate and President Obama promised to veto it should it make it through.

With cuts over 20% poised to have gone into effect April 1, Congress again took action to delay the implementation. Both the House and Senate passed a one-year delay of the cuts in the **Protecting Access to Medicare Act of 2014**. Also of interest to the physical therapy community, this bill continued the therapy cap exceptions process and delayed the transitions from ICD-9 to ICD-10 codes.

Members Site – legislative tracking information

The above is just a sampling of what is happening in the legislatures regarding physical therapy. Please follow the legislative and regulatory developments in your own and other states by logging into the [FSBPT Members site](#) and clicking “Legislative Tracking” on the left navigation bar. There you will find the most up-to-date tracking information.

Questions regarding the above legislative and regulatory issues or other Professional Standards issues can be directed to Leslie Adrian, PT, MS, MPA, Director of Professional Standards at FSBPT.