

FACT SHEET

School-Based Physical Therapy: Conflicts Between Individuals With Disabilities Education Act (IDEA) and Legal Requirements of State Practice Acts and Regulations

School-based physical therapy is a unique practice setting, governed by federal, state, and local mandates. Clients are students (ages 3 to 21 years old) with a myriad of complex and challenging conditions, including developmental delays, cerebral palsy, progressive neuromuscular disorders, autism, learning disabilities, and severe physical and cognitive disabilities. School-based physical therapists (SBPTs) serve on Individualized Education Program (IEP) teams, which are comprised of teachers, other educational professionals, and parents. The teams collaborate on decisions regarding provision of a variety of services, including physical therapy. SBPTs deliver services to students and on behalf of students through direct intervention and/or consultation with school personnel on issues that require physical therapist (PT) expertise. As related service providers, SBPTs must comply with the federal Individuals with Disabilities Education Improvement Act of 2004 (IDEA).¹⁻⁵ However, they report ethical and practice challenges arising from conflicts between IDEA and their respective state practice acts, rules, and regulations.⁶

In January 2013, the School-based Physical Therapy Special Interest Group (School SIG) of the Section on Pediatrics (SoP), American Physical Therapy Association (APTA), appointed a task force on state practice acts and regulations to examine these conflicts and develop recommendations for addressing them. In collaboration with the SoP's Early Intervention Special Interest Group (EI-SIG), we developed a survey to determine the extent to which these conflicts affect both school-based and early-intervention practice, with each SIG analyzing its results separately. We emailed the survey link to the 494 current members of the School SIG, and the SoP office emailed it to all 5,028 SoP members, of which nearly 37% practice in school settings. SBPTs from 39 states submitted 255 completed surveys, representing 52% of the School SIG and 14% of school-based SoP members. An additional 87 respondents reported practicing in early-intervention, hospital-based, clinic-based, or academic settings. The results revealed that, among each of 5 identified issues listed below, 35% to 57% of SBPT respondents experience at least some conflict (See Table 1).

- Examination, Evaluation, & Reevaluation
- Documentation
- Physician referral
- Supervision of physical therapist assistants (PTAs)
- Supervision of other educational personnel

Table 1. Survey on Conflicts Between IDEA and State Physical Therapist Practice Acts/Regulations in School-Based Settings: January 2013

N = 255

Difficulties or Conflicts	None	Some of the Time	Frequently	Most of the Time	Does Not Know Practice Act
Examination/Evaluation/Reevaluation	27%	36%	13%	8%	16%
Documentation	31%	36%	10%	11%	12%
Physician Referrals	41%	30%	11%	6%	12%
Supervision of PTAs	51%	22%	7%	6%	14%
Supervision of Other Educational Personnel	41%	25%	6%	6%	22%



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Examination/Evaluation/Reevaluation

The terms “evaluation” and “reevaluation,” as they relate to physical therapy practice, present challenges for SBPTs. IDEA mandates a timeline for initial evaluations and reevaluations to determine whether a student requires special education and related services. A PT’s initial evaluation may be part of the process for determining eligibility or as a referral from the Individualized Education Program (IEP) team at a later date as team concerns arise regarding student performance.¹⁻⁵

In general, state physical therapy practice acts require reevaluations every 30, 60, or 90 days. Under IDEA, reevaluations must be conducted every 3 years or when the IEP team identifies changes in the student’s function, resulting in an earlier reevaluation. Reevaluation, as it relates to IDEA 2004, is used to support a student’s need for special education and related services, but not specifically physical therapy. Most students with IEPs have long-term disabilities or chronic conditions that may not show significant changes or responses to interventions within 30- to 90-day periods. Therefore, reevaluations, as defined by state practice acts, may not be necessary and could cause disruption in the educational program and provision of services. According to IDEA 2004, IEPs are reviewed and revised annually or more if needed. Writing lengthy evaluation/reevaluation reports at shorter intervals, along with IDEA’s mandate for obtaining written parental permission, would add to the already excessive paperwork required of SBPTs. SBPTs should consult their state practice acts for further information.

An example of language that addresses these challenges can be found in the Oregon Administrative Rules. This document states that a PT must perform an evaluation when “the individual is a child or a student eligible for special education, as defined by state or federal law, or eligible under Section 504 of the Federal Rehabilitation Act of 1973, and is being seen pursuant to the child’s or the student’s individual education plan, individual family service plan, 504 plan, or other designated plan of care,” following the IDEA timeframe of routine reports and annual reviews.⁷ Some state practice acts define an update simply as documentation of client response, progress toward achievement of goals, and justification for continued treatment on a timeline of every 30 to 180 days. In those states, SBPT documentation of PT services rendered or IEP progress reports could meet the requirements of both IDEA and practice acts. SBPTs who find areas of conflict should advocate to their state boards to make changes that are appropriate for school-based practice.

Documentation

Requirements for documentation in school-based settings are challenging for SBPTs and add significantly to their workload, impacting service provision and caseload assignments. Frustration about paperwork has been described as one of the greatest professional challenges for SBPTs and an impetus for leaving school-based practice.⁸⁻⁹

Since requirements for SBPT intervention records are not stipulated in IDEA, local education agencies, supervisors, or SBPTs themselves determine the format and extent of their documentation, usually basing it on requirements of their practice acts and guidelines of their professional organizations. IDEA stipulates the IEP as the foundation for service delivery. Included is the special education eligibility classification, a description of the student’s present levels of academic achievement and functional performance (PLAAFP). This incorporates measurable goals, methods for monitoring and progressing goals, related services to be provided (including physical therapy), frequency and duration of those services, duration of the IEP, and other identified services. The IEP team collaborates in determining whether the expertise of a PT is required to assist the student in special education. Goals must be discipline-free, measurable, and focus on the student’s participation in the educational program. The IEP may or may not suffice as the plan of care, depending on state regulations. PT intervention strategies are not documented in the IEP.

Additional questions may arise from APTA’s *Guide to Physical Therapist Practice, Second Edition*, which delineates physical therapy examination, evaluation, diagnosis, prognosis, and plan of care.¹⁰ APTA’s “Defensible Documentation for Patient/Client Management” states that PTs should document each PT session (including cancellations) and stipulates that the IEP may include the plan of care.¹¹ However, the IEP rarely includes all the components of a physical therapy plan of care as required for Medicaid reimbursement or as identified by these APTA documents. Requirements of practice acts related to physical therapy documentation vary from state to state. In general, PTs must: (1) document every intervention session, (2) secure storage of records, and (3) provide copies of the documents to the families. When local school districts seek Medicaid reimbursement, Medicaid-specific paperwork is required of the SBPT for each session, usually in the language of “medical necessity.” SBPTs should clarify documentation requirements in their respective states and school districts.

Physician Referrals

The requirement for physician referrals for PT services varies among state practice acts.¹² Referrals are generally written to address services for clients with short-duration intervention needs in clinical settings. State practice acts may allow: (1) unrestricted direct access (without requiring referral by a physician or other healthcare provider), or (2) direct access with some restrictive provisions. As of July 2013, 17 states have unrestricted direct access. Five states make exceptions to allow SBPTs to provide intervention without referrals: Kansas, New Jersey, Virginia, Wisconsin, and Wyoming. For example, Virginia’s practice act permits direct access to “special education students who, by virtue of their individualized education plans (IEPs), need physical therapist services to fulfill the provisions of their IEPs.”

IDEA is silent on physician referrals in school settings. In states that have direct access with restrictions based on time or number of visits, without exemption for school settings, practice acts may require renewals of physician referrals or consultations as frequently as every 30 days. Most students receiving physical therapy services under IDEA have developmental and/or chronic disabilities for which substantial progress is not likely to be made every 30 days. Among survey respondents, 47% reported problems related to obtaining referrals. Some SBPTs face conflicts when the local education agency's protocols require referrals and/or establish unique referral timelines that are inconsistent with the state practice act. This situation can present SBPTs with ethical dilemmas and subject them to charges of unprofessional practice or potential loss of licensure and/or employment.

The physician-referral process can be daunting for parents as well. It can lead to delays in initiating PT services or interruption of services, while imposing costs and time burdens to families already in crisis. This is especially challenging for families whose primary language is not English and/or those with limited access to community health services. However, IDEA mandates and IEPs legally require that students receive these services.

Ongoing legislative efforts by APTA and its state chapters seek to expand direct access for all PTs. SBPTs can work with their state boards and component leadership to gain full direct access for students in school settings. Decisions to obtain physician referrals may be delegated to the professional responsibility of SBPTs, based on individual student needs.

Supervision of Physical Therapist Assistants (PTAs)

Most practice acts prescribe the scope and level of supervision that PTs must provide PTAs, including initial direction and periodic oversight. Individual state practice acts vary with regard to specific requirements, from direct to indirect to general supervision.^{13,14} In many regions of the country, particularly in rural areas, supervision of PTAs working in school settings is extremely difficult to provide because of the limited number of PTs in each building. In some cases, necessary physical therapy services are suspended until supervision requirements can be met. Doing this may also be in violation because the IEP defines the services required for each student, with changes made by the team based on the student's needs. It may be in violation to continue PTA services when supervision requirements are not being met. Many school districts and SBPTs choose not to hire PTAs because of these supervision challenges, which may limit the availability of PT services for students. When PTA supervision complies with legal requirements, many SBPTs find that the PT/PTA service-delivery model is an effective and efficient way to provide services to students, consistent with the need for cost containment.

Supervision of Other Educational Personnel

SBPTs routinely provide ongoing instruction and monitoring on behalf of students to teachers, paraprofessionals, nurses, aides, and families. However, the SBPT retains responsibility for student performance and outcomes.¹⁻⁵ Training may include carrying out specific exercises or activities that no longer require the PT's professional judgment. Training exercises include: (1) transfers, (2) ambulation, (3) negotiating stairs, (4) standing programs, (5) positioning, (6) strengthening and endurance activities, (7) playground and physical education activities, (8) use of power mobility, and (9) techniques for assisting the student in activities of daily living and other school routines. While these are not PT services, they are supplemental to the educational program delivered by someone other than the SBPT. Actions that do comprise physical therapy include: (1) evaluating, (2) identifying physical therapy diagnoses, (3) describing prognosis, (4) selecting intervention strategies, (5) applying exercise principles to the intervention plan, and (6) making physical management decisions and program changes.

The responsibilities associated with instructing and consulting with these individuals concern SBPTs. Some state practice acts and/or regulations require on-site supervision of extended service providers who are not specifically defined, limiting the number a PT may supervise. Most SBPTs provide services at multiple schools, making it impractical to provide daily direct supervision. Since practice acts and regulations do not specifically define the activities that require professional judgment, SBPTs are challenged and at professional risk when delegating guided practice activities to teachers, school support staff, and families. This makes using sound professional judgment when delegating tasks critical.

Additional Issues Derived from Our Survey

In addition to the 5 major areas discussed above, survey respondents expressed other concerns that affect school-based practice but may not necessarily be appropriate to address in state practice acts or regulations. These include the use of IEPs as the PT's plan of care, as well as management of workloads or caseloads.

Table 2. IEP as the Plan of Care

Does your state practice act or regulations accept an IEP as a plan of care?

IEP as plan of care	Yes	No	Does Not Specify	Does Not Know What Practice Act Requires
	17%	25%	33%	25%

IEP as the Plan of Care

In some states, SBPTs have sought language in their practice acts for using IEPs as their plans of care. Though at times successful, including the plan of care in the IEP would require universal approval by the team (with the parents) for all revisions. The *Guide to Physical Therapist Practice, Second Edition*, states that a plan of care should list specific interventions and anticipated discharge plans.¹⁰ These components are not appropriate in an IEP, which is merely an educational document, not a clinical tool.¹⁻⁵

Most physical therapy practice acts make no mention of including the plan of care in the IEP, but they do require a plan of care as part of a PT's documentation. For example, regulations in Kentucky stipulate that a plan of care should include:

- "Treatment to be rendered;
- Frequency and duration of treatment; and
- Measurable goals."

The Oregon Administrative Rules compromise, stating "in a school setting, a plan of care may include the IEP for a student." This simplifies the documentation burden and eliminates the need for a separate plan of care.

Table 3. Workload/Caseload Considerations

Does your state practice act present difficulties or conflicts in the area of workload/caseload considerations?

Workload/Caseload Considerations	None of the Time	Some of the Time	Frequently	Most of the Time	Does Not Know What Practice Act Requires
	55%	12%	4%	3%	27%

Caseload/Workload Considerations

Some state practice acts restrict the number of clients and/or interventions that a PT may provide per hour or per day. SBPTs may deliver services to groups of students, which could violate these restrictions. Maryland's practice act added an exclusion that accommodates these groups, noting that PTs should provide "physical therapy services to not more than an average of 3 patients per clinical treatment hour per calendar day, excluding group therapy." However, individual direct services remain limited.

There has been a "counting of heads" approach to the assignment of caseloads that does not consider the evolving roles and responsibilities of SBPTs. With the passage of the No Child Left Behind/Elementary and Secondary Education Act (NCLB/ESEA), SBPTs are designated as specialized instructional support personnel (SISP). They are expected to work collaboratively with school teams to address the needs of all students, not only those with IEPs. These additional PT services may include: (1) serving as a liaison with the medical community, (2) writing reports, (3) traveling among schools, (4) attending planning meetings, (5) modifying instruction, (6) identifying and accessing adapted materials, (7) supporting self-help and/or personal hygiene needs, (8) making decisions and training school personnel in positioning students, and (9) conducting school environmental assessments, consultations, and training. Assigning caseloads without consideration for these additional responsibilities may compromise the SBPT's professional ethics. A workload, not caseload, measure would be a more appropriate guiding factor for state licensing boards and local school districts to consider when making decisions about staffing.

Conclusion

Our survey of SBPTs identified the following areas of conflict between the federal IDEA and state practice acts/regulations: (1) examination/evaluation/reevaluation, (2) documentation, (3) physician referrals, (4) supervision of physical therapist assistants (PTAs), (5) supervision of other school-related extended providers, (6) IEP as the plan of care, and (7) caseload/workload considerations. PTs working in educational settings must comply with IDEA as well as the directives of their local school districts. Failing to do so can jeopardize the IEP process and their employment. PTs must also follow their state practice acts and regulations or risk sanctions from their licensing boards.

SBPTs are encouraged to assume the responsibility to review their state practice acts and regulations for possible conflicts with IDEA and to determine how these might impact their practice in school settings. In partnership with their APTA state chapter leadership, they should work with their state licensing boards to identify solutions to these conflicts that can be addressed through definitive interpretation of existing regulations, exemptions from certain regulatory requirements, supplemental administrative rules, or comprehensive guidance documents. The goals of this collaboration would be to accurately reflect the unique nature of school-based physical therapy practice while ensuring compliance with state licensure laws and regulations.

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Link to All State Practice Acts:

<http://www.apta.org/Licensure/StatePracticeActs/>

Links to Referenced State Practice Acts:

Connecticut:

http://www.ct.gov/dph/lib/dph/practitioner_licensing_and_investigations/plis/physicaltherapist/pt_stats.pdf

Delaware:

<http://regulations.delaware.gov/AdminCode/title24/2600.pdf>

Indiana:

<http://www.ai.org/legislative/ic/code/title25/ar27/ch1.html#IC25-27-1-1>

Kentucky:

<http://pt.ky.gov>

Maryland:

<http://dhmh.maryland.gov/bphte/SitePages/comar.aspx#chap3>

New Jersey:

<http://www.njconsumeraffairs.gov/laws/ptlaw.pdf>

Ohio:

<http://otptat.ohio.gov/Portals/0/laws/2012%20PT%20Law%20Effective%20May%201.pdf>

Oklahoma:

<http://www.okmedicalboard.org/download/288/PTLAW.pdf>

Oregon:

http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_848/848_tofc.html

Pennsylvania:

http://www.dos.state.pa.us/portal/server.pt/community/state_board_of_physical_therapy/12522

Texas:

http://www.ptot.texas.gov/images/pdfs/pt/PTrules_2013.06.pdf

Virginia:

<http://www.dhp.virginia.gov/PhysicalTherapy>

Washington:

<http://apps.leg.wa.gov/WAC/default.aspx?cite=246-915&full=true>

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