

# **Reactions from Members and Patients on Physician-Owned Physical Therapy Services (POPTS)**

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**An American Physical Therapy Association White Paper**



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### **Introduction**

The term “referral for profit,” in the context of physical therapy practice, describes a financial relationship in which a physician refers patients for physical therapy treatment and derives a financial benefit from the referral. In the most common referral-for-profit arrangements, physicians have an ownership interest in the physical therapy practices to which they refer, known as physician-owned physical therapy services, or POPTS.

The American Physical Therapy Association (APTA) has long held that POPTS present conflicts of interest for health care providers, diminish the patient’s right to choose a physical therapist (PT), and could subject patients to unnecessary inconvenience, expense and treatment. In a January 2005 position paper, APTA restated its longstanding opposition to POPTS and support for legislative and regulatory measures at the state and federal levels to ban the practice.

To learn more about POPTS at the practice level, APTA in February 2007 sent a survey to members of its Private Practice Section asking for feedback on their experiences with POPTS.

Although many of the respondents asked to remain anonymous for fear of retaliation by physicians on whom they rely for referrals, the letters and e-mails sent to APTA confirmed the Association’s concerns about POPTS. Not only were there reports about loss of patient choice and superfluous treatment, respondents also cited shoddy care and unqualified staff at POPTS establishments, as well as an overall loss of referrals for traditional private physical therapy clinics.

### **Patient experience**

In spite of the power of physician control of referral, which inhibits both PTs and patients from going on the record about their POPTS experiences, there are respondents willing to speak with APTA on this issue, some of whom are contacting patients who might speak with the Association as well.

The reports APTA has heard from patients come from those who have had a regular PT over several visits and are then referred to a POPTS clinic due to a more recent condition. Such is the case of Barbara Kelley of Wichita, Kan.

According to Kelley, her surgeon urged her to go to his physical therapy clinic, and not her regular PT, due to complications from knee-replacement surgery. Kelley did not want to visit a new PT, who would not have the same familiarity with her past therapy, but has said she was not given a choice.

In spite of low expectations, Kelley was disappointed with the care she received. She was used to an hour of one-on-one care during sessions with her PT, for which she was billed \$100 per session. At the POPTS facility, rather than one-on-one care, approximately 45 patients at a time were sent through a circuit of exercises in water and on machines, which Kelley found confusing. There were no more than two certified PTs at a time supervising the entire group, and Kelley said she felt uncomfortable undergoing treatment around so many other, unfamiliar patients. According to Kelly, the POPTS facility charged her \$400 per session for sessions that took three hours because of persistent waiting.

### **Efforts to document POPTS problems**

Kelley's willingness to come forward appears to be quite rare. Anecdotal evidence indicates patients are usually uncomfortable confronting their physicians when referred to a new PT. Of course, patients who have never undergone prior physical therapy, or whose only experience is referral to POPTS clinics, cannot be expected to realize they have been denied a choice. Although it has proved difficult to find patients willing to go on the record, PTs such as Clark Heath of Washington, Andy Mattle of New York and Trent Nessler of Tennessee are leading efforts in their areas and working to find patients who will speak with APTA on this issue.

Nessler, of the Tennessee Physical Therapy Association's Professional Complaints Task Force, is used to reports from PTs about poor treatment at POPTS. He hears accounts of over-utilization of physical therapy in referral-for-profit situations, treatment by technicians, and excessive volume at POPTS clinics. Mattle, who has allied with approximately 50 other private-practice PT offices in or around Rochester, N.Y., told of patients inconvenienced by long drives to POPTS clinics, when their physicians could have referred them to closer offices.

APTA has received similar reports. In a September 2004 member survey, more than half of the respondents indicated their patients had described problems at physician-owned practices, such as poor care and treatment by non-PTs.

## **Decrease in referrals, loss of patients to POPTS clinics**

Meanwhile, PTs are continually frustrated by the gradual loss of patient referrals from physicians. Heath hired an economist to provide loss estimates for a lawsuit his Columbia Physical Therapy practice has filed against an orthopedic group in Kennewick, Wash. The estimate, provided by Dr. Frederick DeKay of Kenmore, Wash., calculates a loss of 103 patient referrals from 2003-2005 for a revenue loss of more than \$58,000.

Steve Hoffman, PT, of Sewickley, Pa., estimated a 15 % drop in patient visits, 17 % decrease in new patients, and 27 % loss in patient payments received from February 2006 to February 2007 due to orthopedic surgeons opening PT clinics.

These instances are supported by results from APTA's 2004 survey. More than 80 percent of therapists who reported losing referrals said physician-owned clinics had retained patients they had previously referred to other physical therapy providers.

Other PTs have provided stories of regular patients lost to physicians who previously had not been referral sources. Carolyn Bloom, PT, of Topeka, Kan., told of one of her past patients who had been referred to a POPTS clinic after knee replacement. The patient complained to the surgeon that she was also having neck pain; however, he said he would not treat her until the condition got worse, at which point he would initiate surgery. After persistent pain, the patient received a referral from her primary-care physician for neck therapy with Bloom. Bloom learned that the patient was simultaneously seeing two PTs for two different diagnoses when the patient hobbled into Bloom's clinic and mentioned her knee therapy.

When the physician referred another of Bloom's regular patients to his PT clinic, Bloom on April 5, 2005, attempted to provide the physician with Kansas statutory language on unprofessional conduct, which requires health care entities to inform patients if they are profiting from self-referral (K.S.A. 65-2837, b.29, h). He refused to accept the note.

## **Intimidation from POPTS**

This intransigent behavior is common among physicians establishing or engaging in referral-for-profit arrangements. Heath, of Columbia Physical Therapy, has provided a statement of his being approached by the administrator of a physician clinic in his area. The clinic was planning to hire PTs and wanted to enter a business relationship with Columbia Physical Therapy. When Heath declined the offer at their next meeting, the administrator said that "someone is going to get hurt in the community when we open our clinic," implying that Columbia Physical Therapy would suffer from not entering the referral-for-profit agreement.

Heath told the administrator that Columbia Physical Therapy had a good relationship with physicians at his facility and others in the area. The administrator responded that his physicians would find it "worth it to them to refer to physical therapy" at the physician-owned clinic.

Others have described similar threats. Nearly 6 % of respondents to APTA's 2004 survey reported receiving threats of withheld referrals from physician-owned practices. More than 85 % of the responding therapists said the threats were made to induce the sale of their practices to the physicians.

The financial benefits of referral for profit are not lost on physicians. In fact, POPTS setups are being actively promoted. A joint lecture at the 2005 Conference on

Physician Agreements and Ventures outlines the benefits of establishing physical therapy clinics and how to utilize exceptions to federal prohibitions. The lecture, given by Harpeth Capital Investment Bankers, TherEx Onsite Rehab Solutions and McDermott Will & Emery, was forwarded by a member of the Missouri Physical Therapy Association who requested anonymity.

### **PTs at POPTS**

APTA has also heard of poor practices by physician-owned clinics from a PT who worked at one. Stephen Clark of Westlake Village, Calif., owned two physical therapy practices before he was approached by a group of physicians about opening a clinic in their suite. After going into business, the physicians demanded cutting outside referrals from approximately 30 % to no more than 10 %. Patients who had previously attended the clinic were told to go elsewhere.

Clark said the physical therapy practice at the physician-owned suite was treating twice as many patients as his other clinics, and patients and staff complained of overcrowding and shorter treatments. The relationship broke down, and Clark's team left the suite with 30 days notice.

### **Conclusion**

The debate over POPTS is made difficult by a reluctance of patients and PTs to come forward. Among the patients who understand they have been sent to a POPTS without having been given a choice, many do not want to challenge their doctors. Meanwhile, PTs who rely on doctors for patient referrals do not want to alienate physicians and put their own practices at risk. Nevertheless, the evidence against referral-for-profit systems has driven some patients and PTs to speak against POPTS.

Reports have confirmed many of the primary concerns about POPTS arrangements: the profit motive for physicians presents a conflict of interest that can result in a loss of patient choice, diminished quality of care, and added inconvenience, expenses and treatment for patients. In addition, PTs who do not agree to POPTS arrangements are seeing fewer referrals.

Referral-for-profit arrangements have been challenged in the past by federal legislation. For the sake of American patients, whose well-being is being compromised by the financial interest of health care providers, additional efforts are needed.