

## Eli's Rehab Report

### Industry Alert: Tune In: POPTS Stir the Pot in California

#### Experts dish why physician ownership of physical therapy services spells bad news.

A heated debate over physician-owned physical therapy services (POPTS) and physical therapy referral-for-profit is taking center stage in California -- and physical therapy advocates insist that POPTS affects physical therapists nationwide.

In a move that critics say reeked of payoffs from the California Medical Association, California State Senate Pro tem **Darrell Steinberg** (D-Sacramento) squeezed a last-minute amendment into omnibus regulatory measure SB 543 that changed the playing field for physical therapy in California.

New rule: Until Jan. 1, 2013, the California State Board of Physical Therapy, must stop enforcing long-standing state statutes that outlaw medical, chiropractic, and podiatric corporations from employing PTs. Previously, the California State Board could take disciplinary measure against PTs working in POPTS settings, up to and including license revocation.

Industry reaction: The California Physical Therapy Association (CPTA) is up in arms about the SB 543 amendment. "The legislative branch has twice defeated bills that would make [POPTS] lawful," notes Dr. **James Syms, PT, DSc, ATC, SCS**, president of CPTA. If that's not enough, a legislative counsel opinion deemed POPTS unlawful, and the California Department of Consumer Affairs came to the same conclusion, Syms tells **Eli**.

#### Know Your Colleagues' Views

The discussion of PTs working for physicians is "a topic that's very polarizing," observes **Michael Weinper, PT, DPT, MPH**, president and CEO of PTPN. That said, "it's the minority [of PTs] who work in physician offices."

CPTA estimates that about 20 percent of its 25,000 physical therapists work in POPTS settings. And "in California, it's been happening ad nauseam," Weinper remarks.

Opposition: The physical therapy profession at large, especially the American Physical Therapy Association and its respective state chapters, vehemently opposes referral-for-profit and POPTS. Their reasoning:

- Lack of professional autonomy. "First, should one profession be able to claim financial control over another?" posits APTA in a white paper on the issue. The association has worked hard to promote the authority of the PT profession, so ownership by another profession is a big step backwards, it says.

"When you lose your authority, you are prone to be exploited," says **Ken Maily, PT**, with Maily & Inglett Consulting in Wayne, N.J. "And you're in an even higher-risk situation when your referral source is also your employer."

- Conflict of interest. "Once a physical therapist is employed by a physician or physician group, a conflict of interest exists, in which the best interests of the patient or client may be compromised for financial gain by the physician owner," APTA argues. When that happens, standard of care drops, and the services become over utilized.
- Economic repercussions. "An independent study in Florida showed 43 percent more therapy visits in the POPTS setting," Syms says. "What if a person was ordered nine therapy visits when he only needed six? That's three more copays he has to pay out of pocket and three more times he has to call off work," Syms says. Now he's short around \$120. For some people, that may keep them from paying next month's rent.

Meanwhile, overutilization is why insurance premiums have increased so much 💎💎" and why Medicare is running in the red, Syms points out. And the less Medicare and your payers have in their budgets, the lower your paycheck becomes.

Also, "working in POPTS environments is not fair to independent therapists who cannot compete with those situations," Weinper says.

- Loss of patient choice. A POPTS situation will mostly refer to their in-house therapists, removing the patient's choice. "If the patient is not treated as an individual who has a choice and is told where they will and will not go, that is wrong and something every healthcare provider should be opposing," Maily says.

### **You May Need to Bite the Bullet**

Despite the physical therapy profession's strong argument against POPTS, "most people working in those situations want to stay in them," Weinper observes. In fact, many of these PTs testified before the California Assembly and Senate that they worked in POPTS settings and felt they provided good care.

"It's as if they gave all the reasons they were speeding to work," Weinper says. "But speeding is illegal, regardless of the logic you give for the situation."

Cold, hard truth: Staying in a POPTS situation is the easy way out -- but getting out of it is a whole other story, especially if it means finding a new job or becoming a business owner instead of an employee.

The good news: If you are in California and need to remove yourself from a POPTS situation, now you have a year to do so. "We have a section on the CPTA website to help the therapists, who, for whatever reason, are in these arrangements, to get out of them," Syms says. "We are reaching out to help them, and not just our members, but any therapist in the state." See [www.ccapta.org/displaycommon.cfm?an=1&subarticlenbr=142](http://www.ccapta.org/displaycommon.cfm?an=1&subarticlenbr=142).