Referral for Profit:

Spending more for physical therapy and getting less

Faced with opportunities for health care reform, there are a number of questions that you should ask.

AMERICAN PHYSICAL THERAPY ASSOCIATION
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"....billions of dollars are likely being wasted nationwide on referrals motivated by physicians' financial gains and not strictly by their patients' medical need."

Center for Health Policy Studies | Columbia, Maryland

Is there a conflict of interest when physicians invest in services to which they refer?

Yes. There is an inherent conflict of interest in the traditional fee-for-service health care system. According to Arnold S Relman, MD, former editor of *The New England Journal of Medicine*[1], "Ethical practitioners minimize [conflicts of interest] by avoiding self-referral whenever possible, by conservative use of tests and procedures, and by conscientiously attempting to meet their fiduciary responsibilities to their patients." He also points out that, "The situation is different when physicians seek income beyond fee for service and make business arrangements with other providers of services to their patients." The difference lies in stepping beyond the conflict of interest inherent in fee for service and entering into arrangements that amount to voluntary conflicts of interest.

The American Physical Therapy Association characterizes these situations as "referral for profit." They are even more objectionable when the services in which referring physicians invest are services accessible only upon a physician's referral. Even though referral may be required as a matter of state or federal law or as a matter of third-party payer preference, physicians who are in the position of gatekeepers to services such as physical therapy are increasingly investing in these non-physician services, thereby ensuring that the gate swings in the direction that benefits them most.

1. Relman AS. Dealing with conflicts of interest. *NEJM.* 1985;313(12):749-751.

Are consumers paying too much for physical therapist visits?

A study conducted for the State of Florida's Health Care Cost Containment Board[2] found that the number of visits per patient is significantly higher in physical therapy facilities in which referring physicians invest than in those in which there is no such incentive for referral. In fact, patients treated at physician-owned facilities received 43% more visits per patient than did patients treated at non-joint-venture physical therapy centers. **These additional visits resulted in an average of 31% higher revenues per patient to the joint-venture facilities, or $200 more revenue per patient.**

Similarly, patients receiving treatment at physician-owned comprehensive rehabilitation facilities received 35% more physical therapy visits than did patients obtaining physical therapy treatment at non-joint-venture facilities. These additional visits resulted in an average of **10% higher revenues per patient to the joint-venture facilities, or $82 more revenue per patient.**

2."Joint Ventures Among Health Care Providers in Florida, Volume I." Tallahassee, Fla: State of Florida Health Care Cost Containment Board; 1991.

Are consumers getting the high-quality care they deserve?

The Florida study[3] also found that joint-venture physical therapy facilities average 62% more visits per full-time equivalent licensed physical therapist than do non-joint-venture facilities, and about 40% more visits per full-time equivalent physical therapist and physical therapist assistant considered in combination. According to the Florida study, "This suggests that joint-venture facilities provide lower quality services than their non-joint-venture counterparts because their visits are of shorter duration. This may also imply that licensed practitioners are not delivering these services." According to the study, **"These findings indicate that joint-venture facilities provide a lower quality of care because both licensed therapy workers and non-licensed workers spend less time with each patient."**

This problem is not limited to joint-venture agreements. A study released by the Office of Inspector General (OIG) of the Department of Health and Human Services raises similar quality concerns for services billed to the Medicare program as physical therapy within physicians' offices. The OIG study released in March 1994 found that, "Almost four out of five cases (78 percent) reimbursed as physical therapy in physicians' offices do not represent true physical therapy services...."

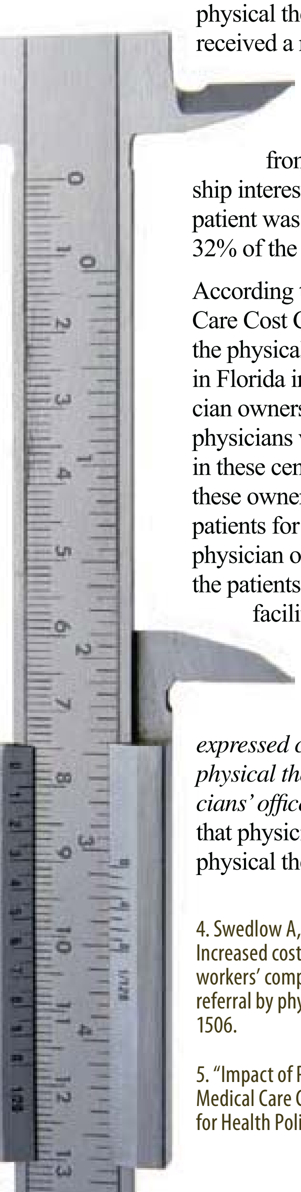
3."Joint Ventures Among Health Care Providers in Florida, Volume II." Tallahassee, Fla: State of Florida Health Care Cost Containment Board; 1991.

■ Physician-owned or joint-venture physical therapy facilities
vs
□ independent or non-joint venture facilities

> *"…this phenomenon generates approximately $233 million in services delivered for economic rather than clinical reasons."*

William M Mercer, Inc | Medical Referral-for-Profit in California Workers Compensation

Are consumers paying for unnecessary services?



A study of the California Workers' Compensation Program conducted by William M Mercer, Inc, found that if an injured worker received initial treatment from a provider with an ownership interest in physical therapist services, that patient received a referral to physical therapy 66% of the time. By contrast, if the injured worker received initial treatment from a provider with no ownership interest in physical therapy, the patient was referred to physical therapy 32% of the time.[4]

According to the State of Florida Health Care Cost Containment Board[5], 40% of the physical therapy rehabilitation centers in Florida involved some degree of physician ownership. An examination of the physicians who have investment interests in these centers revealed that 95% of these owners are in a position to refer patients for physical therapy. Referrals by physician owners accounted for 65% of the patients, on average, for both types of facilities.

More than one-third of the Medicare carriers responding in the OIG study expressed concern with overutilization of physical therapist treatments in physicians' offices. Other carriers also agree that physicians are billing too many physical therapist services.

4. Swedlow A, Johnson G, Smithline N, Milstein A. Increased costs and rates of use in the California workers' compensation system as a result of self-referral by physicians. *NEJM.* 1992;327(21):1502-1506.

5. "Impact of Physician Joint Venture Activity on Medical Care Costs in Florida." Columbia, Md: Center for Health Policy Studies; January 1992.

What is the overall financial impact of referral for profit on the cost of physical therapist services?

The Mercer study concluded that referring physician investment in physical therapist services for workers' compensation in California generates approximately $233 million per year in services delivered for economic rather than clinical reasons.

Similarly, referral-for-profit situations were found to inflate expenditures for physical therapist services in Florida. The Center for Health Policy Studies reviewed the study completed for the State of Florida's Health Care Cost Containment Board and concluded that the cost of physical therapist services in 1991 in Florida was inflated by $10.9 million due to referral for profit.

In a May 2006 report[6], the Office of Inspector General found that 91% of physical therapy billed in physicians' offices did not meet Medicare requirements, costing taxpayers millions of dollars. The report found that the total payments for physical therapy claims from physicians skyrocketed from $353 million in 2002 to $509 million in 2004. In addition, the number of physicians billing the program for more than $1 million in physical therapist services more than doubled in that 2-year period. These findings come as an explosion in the number of physician-owned physical therapist clinics has occurred across the country.

6. "Physical Therapy Billed by Physicians." Washington, DC: Department of Health and Human Services, Office of Inspector General; May 1, 2006. Available at http://www.oig.hhs.gov/oei/reports/oei-09-02-00200.pdf. Accessed on January 18, 2008.\\

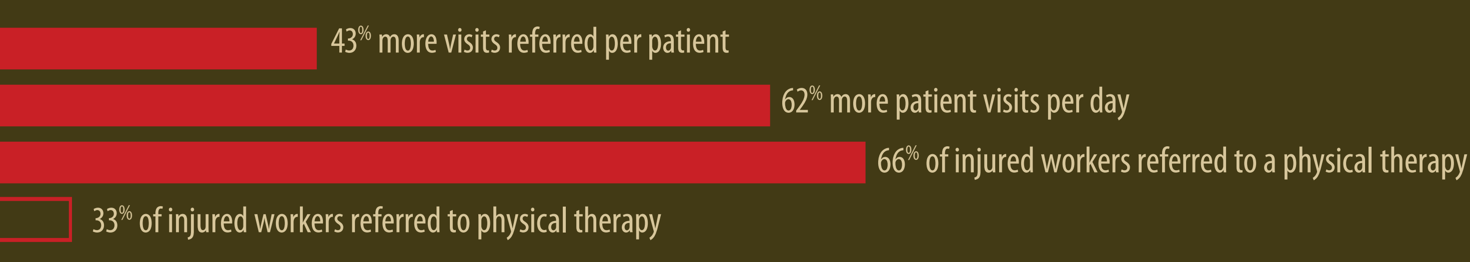
Does investment by physicians in physical therapist services to which they refer improve access to these services?

No. The Florida study measured access to various payer groups by the percentage of the total revenue received from each payer group and by the proportion of gross revenues attributable to bad debt and charity. Non-joint-venture facilities specializing in the provision of physical therapist services received significantly higher percentages of their revenues from Medicare.

The access measures for rehabilitation facilities showed that joint-venture centers generate significantly more revenue from Blue Cross and commercial insurers and from managed care patients than do their non-joint-venture counterparts. On the other hand, non-joint-venture facilities generated significantly more of their revenues from Medicare compared with facilities owned by physicians, and they wrote off significantly more revenue for care provided to bad debt and charity patients. Joint-venture rehabilitation facilities did not treat any Medicaid patients, whereas their non-joint-venture counterparts generated about 2% of their revenues from this payer group.

Joint ventures also did not promote access to services to people residing in rural, medically underserved areas. None of the joint-venture physical therapy/comprehensive rehabilitation facilities in Florida was located outside metropolitan statistical areas, nor were any located in rural areas.

7. "Physical Therapy Billed by Physicians." Washington, D.C.: Department of Health and Human Services, Office of Inspector General; May 1, 2006. Available at http://www.oig.hhs.gov/oei/reports/oei-09-02-00200.pdf. Accessed on January 18, 2008.



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