

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Mark R. Chassin, M.D., M.P.P., M.P.H.
Commissioner

Paula Wilson
Executive Deputy Commissioner

May 20, 1993

Dear

I am writing in response to your letter to me of March 16, 1993 in which you ask whether a physician-owned professional corporation may employ a physical therapist and have the physical therapist bill the insurance company and endorse the insurance company's payment checks over to the professional corporation. We consulted with the Department of Education and concluded that the physician-owned professional corporation may employ a physical therapist on a salaried basis but should bill for the services under the name of the professional corporation.

Although physical therapy and medicine are separate and independent professions, the practice of medicine is defined broadly in Education Law §6572 as "diagnosing, treating, operating or prescribing for any human disease, pain, injury, deformity or physical condition." As such, the practice of medicine is broad enough to subsume the practice of physical therapy; and the hiring of a physical therapist on a salaried basis by a physician will not be viewed as either fee splitting or an impermissible brokering of services. The one caveat is that the physician's practice must be in a sufficiently related area of practice that he or she has the competency to supervise a physical therapist.

Since the only permissible means by which the physical therapist can be employed by a physician is on a salaried basis, the billing for services should be done by the physician (or physician-owned professional corporation). This does not mean, however, that the billing should be done in a fraudulent manner which does not specify the actual

services provided or the type of health care provider who actually provided the services. For specific insurance billing questions, we suggest that you contact the New York State Insurance Department.

Sincerely,

A handwritten signature in dark ink, appearing to read "Peter J. Millock". The signature is fluid and cursive, with the first name "Peter" and last name "Millock" clearly distinguishable.

Peter J. Millock
General Counsel