

March 21, 2013

Amy Miller, Administrative Assistant/HR Generalist
Premier Physical Therapy & Occupational Therapy
Post Office Box 1240
Ashland, Kentucky 41105

Re: Opinion and Declaratory Ruling regarding governing the Physical Therapy Practice Act
and electronic medical records

Dear Ms. Miller:

This correspondence is in response to your e-mail dated November 20, 2012, asking for an opinion from the Kentucky Board of Physical Therapy on issues regarding the application of the Physical Therapy Practice Act, KRS Chapter 327, and the use of electronic medical records. Your e-mail was considered by the Board at its next meeting thereafter on January 17, 2013.

Please keep in mind this correspondence is an opinion of the Board based solely on the facts you have presented, which will be summarized below. The Board has authorized this opinion to you as an Opinion and Declaratory Ruling pursuant to KRS 13A.130(3) and KRS 13A.010(2)(b) as the agency with jurisdiction to interpret the statutes and regulations governing the practice of physical therapy in the Commonwealth of Kentucky. The Board also notes a prior Opinion issued February 23, 1999, and designated as Declaratory Opinion No. 1999-001. This Declaratory Opinion supersedes and replaces Declaratory Opinion No. 1999-001.

Does KRS Chapter 327 require a written, paper record to be signed physically, or may an electronic signature meet this signature requirement?

The Board is presented with the question whether KRS Chapter 327, or the regulations thereunder, require the use of a written, paper record to be signed by the physical therapist or physical therapist's assistant.

Under the Physical Therapy Practice Act, the patient's initial evaluation, progress notes, and discharge summary must be signed by the physical therapist. 201 KAR 22:053. Since the Board's issuing Declaratory Opinion No. 1999-001, which allowed electronic signatures, the Kentucky General Assembly enacted KRS 369.107 effective August 1, 2000. This statute controls the legal recognition of electronic records, electronic signatures, and electronic contracts. It states in full:

- (1) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

- (2) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.
- (3) If a law requires a record to be in writing, an electronic record satisfies the law.
- (4) If a law requires a signature, an electronic signature satisfies the law.

As the agency authorized by the Kentucky General Assembly to regulate the practice of physical therapy in this state, the Board is empowered to interpret its statutes and regulations. In summary, the above statute in KRS 369.107 applies to physical therapy records under KRS Chapter 327. KRS 369.107(4) specifically mandates: "If a law requires a signature, an electronic signature satisfies the law."

In conclusion, the Board is of the opinion that a computerized, electronic signature with sufficient confidentiality protections, would meet the signature requirements of KRS Chapter 327 for having a signature on physical therapy records required under its law.

Sincerely yours,
Kentucky Board of Physical Therapy