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May 16, 2011

The Honorable Wally Herger  
The Honorable Pete Stark  
Subcommittee on Health  
House Ways and Means Committee  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Herger and Ranking Member Stark:

As the nation's first and largest specialty network of rehabilitation therapists in independent practice, PTPN and its members who function as small businesses are pleased to offer this statement to the Health Subcommittee of the House Committee on Ways and Means with respect to the May 12 hearing that focused on the Medicare payment system. PTPN has led the rehabilitation industry in national contracting, quality assurance and provider credentialing since 1985, elevating the standard of therapy practice. PTPN continued its role as a rehab pioneer by becoming the first organization of its kind to launch a mandatory third-party outcomes measurement program in 2006. The network has more than 1,000 provider offices (including 3,500 physical therapists, occupational therapists and speech/language pathologists) in 23 states. PTPN contracts with most of the major managed care organizations in the nation, including insurers, workers' compensation companies, PPOs, HMOs, medical groups and IPAs. All members of PTPN must be independent practitioners who own their own practices.

As you proceed with your efforts to reform and ensure stability of the Medicare program -- particularly the Physician Fee Schedule -- we would urge you to be continuously mindful of the independent rehabilitation therapy providers and suppliers who function as small businesses and who are an important, integral element of our delivery system. PTPN members provide a valuable service to communities across the nation and they do so in a convenient, cost-effective manner. But as is typical for small businesses, narrow margins are jeopardized when a significant sector of its market cuts reimbursement without regard to the value of the service provided. Moreover, when such an action is unpredictable and is taken by an influential payer such as Medicare, the effect is to negatively influence the business environment and create an untenable situation for the providers. More importantly, the Medicare beneficiaries are left in a vulnerable position, unable to depend on the access to convenient, cost-effective, high-quality care to which they have become accustomed.

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PTPN provides critical health care services to beneficiaries under Medicare Part B to enable individuals to return to their highest functional potential. Yet, PTPN member practices will be among those who will see Medicare reimbursement rates cut by 29 percent on January 1, 2012, unless Congress takes some important and necessary action. As the Committee on Ways and Means considers legislative options for reforming Medicare payment policies, PTPN is pleased to offer the following guidance and suggestions:

### **SGR Repeal**

A 29 percent cut in Medicare reimbursement, if allowed to take effect next year, would have a crippling impact on private practice physical therapists and their small businesses. Since many private insurers benchmark their payment rates to Medicare, the impact of such a significant cut would be felt far beyond the Medicare community. The recent history of extending a minimal rate increase for a few months or even a year is an unwise and detrimental way to run an insurance program for 47 million beneficiaries. It is time for Congress to repeal the flawed and dysfunctional formula known as the sustainable growth rate (SGR) which has created an unpredictable and untenable business environment for Medicare Part B providers.

In doing so, PTPN would urge Congress to consider placing more emphasis on the value of the service provided, including the resultant effect of the care on the patient.

### **Electronic Health Records**

Congruent with this notion is the need for Congress to expand the incentives for providers to establish electronic health records. Non-physician providers such as independent physical therapists were not included in the federal programs that encourage and reward the adoption of health information technology. Yet, our members provide an important and valuable service that should be coordinated and communicated electronically. What sense does it make to encourage an information superhighway, but only allowing a certain select type of car to drive on it? The sooner Congress and the administration can set the standards for an interoperable electronic health records the sooner waste and redundancy can be wrung out of the system.

### **Therapy Cap Repeal**

Congress can and should take a related step to correct an injustice in the Medicare system that punishes the beneficiaries who are the most impaired and disabled. The arbitrary, per beneficiary annual therapy caps were authorized as part of the Balanced Budget Act of 1997. Since the scheduled implementation date (January 1, 1999), Congress has intervened numerous times to place a moratorium on therapy caps. And, since 2005, Congress has extended a broad-based exceptions process. These caps were intended to be temporary until “an alternative payment method” could be developed.

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And while such an alternative has not materialized in 14 years, one is possible if Congress and the Centers for Medicare and Medicaid Services (CMS) would commit to collecting the necessary descriptive data upon which such an alternative could be predicated.

A limited (and targeted) extension of exceptions process for 2012, 2013, and 2014 combined with instructions to CMS to grant the therapy cap exception for care delivered in any setting that is collecting and reporting functional outcomes data would result in a database containing sufficiently robust information to design the alternative payment method envisioned by the 1997 BBA. Most importantly, such a payment model would not be based on an arbitrary limit, but rather on the amount and type of care to achieve the desired optimal outcome.

Implementation of the above policy need not be costly. In fact, when done thoughtfully, fairly, and in a scientifically sound manner, it may even generate modest savings. PTPN is eager to work with the Committee as well as CMS in advancing this short-term transition that can ultimately result in the therapy cap issue being put behind us.

#### **Curbing Overutilization of Therapy**

Currently under Medicare Part B there are various ways to bill for services. One policy in particular -- the Stark II in-office ancillary services exception to the self-referral law -- carries a proven propensity for overutilization. PTPN believes, and evidence shows, that elimination of this exception could provide potential cost-savings and improve the integrity of the services delivered and paid for by the Medicare program. The Office of the Inspector General of the United States Department of Health and Human Services has continued to identify a high rate (78 to 91 percent) of inappropriate billing of physical therapy services billed "incident to" a physician's professional services. Elimination of these practices must be addressed in an effort to provide a sustainable payment system for providers that serve the Medicare Part B program and ensure we are paying for only services delivered appropriately by qualified professionals of that discipline.

On behalf of PTPN, thank you for your continued efforts to create a more effective and more efficient Medicare payment system.

Sincerely,



Michael Weinper, MPH, PT, DPT  
President/CEO