September 14, 2007

The Honorable Herb Kuhn
Acting Associate Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1392-P
Mail Stop C4-26-05
7500 Security Boulevard,
Baltimore, MD 21244-1850.

Re: Wound Care Services (CMS-1392-P)

Dear Mr. Kuhn

These comments are submitted on behalf of the National Athletic Trainers' Association (NATA) and the 30,000 licensed and certified athletic trainers we represent. Thank you for the opportunity to comment.

Our comments are directed at the WOUND CARE SERVICES PROPOSED RULE and the request for comment. Specifically, the proposed rule states,

> "Section 1834(k) of the Act, as added by section 4541 of the BBA, requires payment under a prospective payment system for all outpatient therapy services, that is, physical therapy services, speech-language pathology services, and occupational therapy services. As provided under section 1834(k)(5) of the Act, we created a therapy code list based on a uniform coding system (that is, the HCPCS) to identify and track these outpatient therapy services paid under the MPFS. We provide this list of therapy codes along with their respective designation in the Medicare Claims Processing Manual Pub. 100-04, Chapter 5, section 20. Two of the designations that we use in that manual denote whether the listed therapy code is an "always therapy"' service or a "sometimes therapy"' service. We define an "always therapy" service as a service that must be performed by a qualified therapist under a certified therapy plan of care, and a "sometimes therapy"' service as a service that may be performed by an individual outside of a certified therapy plan of care.

In General

The proposed rules in the Vol. 72, No. 148 Federal Register seeks to change some CPT codes to "always therapy" from "sometimes therapy." These codes are part of the Physical Medicine and Rehabilitation codes, which the American Medical Association has determined are not provider

specific. The debridement codes 97597, 97598, 97602, 97605, and 97606 have been listed as sometimes therapy codes. Additionally, CMS seeks to revise the list of revenue codes that may be reported with these CPT codes. **The overall effect of these rules will be to unreasonably restrict the use of these codes to a very limited group of health care providers. The effect of changing these codes to "always therapy" and linking them to the revenue codes assigned to physical therapists, occupational therapists and speech language pathologist has the net effect of making the codes provider specific. This is both unwarranted and unwise.**

Proposed Rule Is Inconsistent with the Delivery of Physical Medicine and Rehabilitation Services

It is inappropriate for CMS to attempt to rename and rebrand all of physical medicine and rehabilitation (PMR) services as "physical therapy." **There are a wide variety of health care professionals who provide PMR services. Aside from the ones mentioned above, athletic trainers, lymphedema therapists, kinesiotherapists and physicians. All of these workers work in both hospital and outpatient therapy settings**—which translates to both Medicare parts A and B beneficiaries. These codes are generally related to wound care related to diabetes. However, with diabetes on the rise among all populations, arbitrary and unwarranted restrictions could result in patient harm through loss of access.

Proposed Rule Will Exacerbate Workforce Shortages of Therapists and Restrict Access

NATA objects to this proposed rule because it represents poor public policy and would be a step backwards in efforts to improve beneficiary choice of provider, access to care, efforts to improve quality of care and initiatives to combat increasing health care costs.

If adopted, the proposed rule would have a detrimental effect on patient access to and quality of care. The proposed rule would likely render physicians unable to provide their patients with comprehensive, easily attainable PMR and wound care services within their facilities. For instance, if physicians do not employ a health care professional to deliver what are sometimes outpatient therapy services, patients would likely be forced to see the physician and separately seek treatments at another facility. The result would be additional expense and inconvenience to the patient, as well as additional expense to Medicare. It is possible that some patients would forego services altogether for these reasons. Moreover, patients may not receive the variety of necessary services, such as preventative care, if they have no access to these services as delivered by allied health care professionals who work in physicians' offices.

According to the American Hospital Association (AHA), our country is currently experiencing a critical shortage of physical therapists. Hospitals are offering so-called signing bonuses in excess of $10,000 dollars to recruit physical therapists and finding no takers for these positions. Hospitals and clinics are reporting increasing numbers of vacant physical therapist positions, and the length of time to fill a vacant physical therapist position can be anywhere from six to 12 months. While this may be good news for physical therapists it is not good news for patients in need of services – particularly rural patients where the availability of physical therapists appears particularly acute.

In a June 2004 letter to Senator Maria Cantwell, endorsing legislation the Senator proposed to increase federal support for allied health education, the AHA wrote, "Hospitals and health care facilities across America are experiencing a critical shortage of allied health professionals, including occupational and physical therapists, clinical laboratory technologists, imaging technicians, pharmacy technicians, and radiology technologists, to name a few." Similar to the experience of hospitals, physicians find it increasingly difficult, if not impossible, to find a physical therapist who would be willing, let alone available, to provide physical therapy in the physician's office. In fact in some states, it is illegal for physicians to employ physical therapists or have a financial relationship with a physical therapist. The proposed rule will ultimately cause the costs associated with therapy services to increase because fewer health care workers would be available to deliver services. Therefore those limited providers who are deemed "qualified" will likely raise their prices as a result of the monopoly this proposed rule would create. This is unwise because current and future labor trends indicate a substantial shortage of qualified health care workers, especially in rural areas. This places an undue burden on the health care system.

This is exactly the type of government regulation of allied health professionals upon which the "Improving Health Care: A Dose of Competition" report (July 2004) by the Federal Trade Commission and the Department of Justice casts doubt. Although this report is more particularly directed toward state licensure and registration restrictions, it shows that the proposed rule at issue here would likely lead to anticompetitive behavior and is ultimately harmful to consumers, both patients and payors (i.e. Medicare). The NATA maintains that a wide range of health care professionals are well qualified to provide wound care services and other therapy services. The CMS proposal includes some of these professionals (physical therapists and physical therapy assistants, occupational therapists and occupational therapy assistants, speech and language pathologists) – **but other groups are equally as qualified and capable, including athletic trainers, rehabilitation nurses, lymphedema therapists and kinesiotherapists.** If enacted, the patients will ultimately suffer the consequences. If physicians cannot offer wound care services in their offices, there will be an adverse impact on patient access to care. In rural areas and certain areas with an extremely limited number of health care professionals, the adverse impact on access to care will be more obvious to patients. Likewise, patients will suffer a decrease in quality of care and eventually an increase in cost of care.

The proposed rule is a serious threat to patients' access to wound care services, the quality of care the patient will receive, and the costs of health care services. This is especially true for elderly Medicare patients who do not have a great deal of flexibility due to physical or mental limitations, or transportation and supervisions requirements. It is a very real possibility that many patients will not receive medically necessary wound care services due to lack of access to these services, which will certainly adversely impact the quality of care they receive. This lack of access can result in additional serious health consequences, resulting in costly hospitalizations.

Certified Athletic Trainers

Increasingly, physicians are turning to other health care professionals to provide therapy services to their patients for quality, access and cost reasons. One approach has been to hire certified athletic trainers to provide these services in the physician's office under the direct supervision of

the physician, though this practice is restricted by Medicare. By limiting the number of professionals who can provide wound care services services, the quality of health care for Medicare patients will be reduced – not because athletic trainers or other providers are better than physical therapists – there's no data to support that conclusion. Rather, the quality of care will decline because Medicare patients simply will not or cannot travel the distances necessary to obtain the therapy services they need**. CMS cannot ignore the correlation between access and quality as it relates to these services or any other service for that matter.** We have even seen evidence of this in urban practices that utilize athletic trainers in the physician's office. When the athletic trainer informs the patient that he or she has the option of obtaining therapy services from a physical therapist in private practice if that is the patient's preference, the elderly patient will decline that option because it would mean taking a different bus or going to a different part of town to obtain the care being recommended. Consequently the patient chooses to remain in the familiar and convenient setting rather than travel to an unfamiliar or inconvenient location.

Education and Training of Certified Athletic Trainers

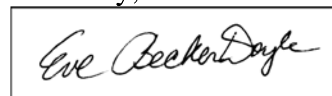
Certified athletic trainers have national academic and certification standards. ATs are highly skilled allied health care professionals who specialize in the prevention, assessment, treatment and rehabilitation of injuries and illnesses that occur to both the physically active and athletes, of all ages. **All ATs have a bachelor's degree, and more than 70 percent have a master's degree.** Medically related continuing education is required to maintain certification. The American Medical Association has recognized the profession as allied health care professionals since 1990. It should be noted that athletic trainers and personal trainers are different: personal trainers are concerned with fitness and aesthetics not health care.

Athletic trainers work in a wide array of settings, including clinics, hospitals, physicians' offices, corporate health programs, secondary schools, colleges and universities, and professional athletics. ATs satisfy stringent educational and experiential requirements, and are required to pass an extensive competency examination administered by the NATA Board of Certification (NATABOC). The NATABOC is reviewed and re-accredited every five years by the National Commission for Certifying Agencies.

The coursework for ATs includes therapeutic modalities and exercise, risk management and injury prevention, pathology of injury and illnesses, pharmacology, nutritional aspects of injury and illness, and health care administration. Further, ATs usually practice under the direction of a licensed physician.

Thank you for the opportunity to voice NATA's concerns. We look forward to receiving information on the CMS decision after the comment period. If you need any additional information or would like clarification of any of NATA's points, please contact Patty Ellis at (1-800-879-6282) or our Washington Representative, Bill Finerfrock (202-544-1880).

Sincerely,



Eve Becker-Doyle, CAE
Executive Director