

OFFICIAL STATEMENT

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**Testimony of Sandra Norby, PT, AT
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**House Energy and Commerce Committee
Subcommittee on Health
on Examining Potential Ways to Improve the Medicare Program**

October 1, 2015

Chairman Pitts, Ranking Member Green, and Members of the Committee:

Thank you for holding today's hearing highlighting these important legislative issues. My name is Sandra Norby, and I appreciate the opportunity to discuss my strong support for H.R. 556, the Prevent Interruptions in Physical Therapy Act of 2015. I would like to especially thank Congressman Bilirakis and Congressman Lujan for their sponsorship of this legislation. I'm a physical therapist and a member of the American Physical Therapy Association (APTA) and its Private Practice Section. I own 5 clinics in Northwest and North Central Iowa, located in towns with populations fewer than 10,000 and serving members of the community from children to senior adults. We are part of the rural health network of providers that ensure access to care and keep our communities healthy and economically viable. As physical therapists in these communities we diagnose and manage the health of individuals who have conditions that limit their ability to move or function in their daily lives. We also work with patients to prevent the loss of mobility before it occurs so they can enjoy healthier and more active lifestyles.

One of APTA's policy priorities is to improve access to care by physical therapists through the elimination of regulatory, legal, and payment policy barriers that impede patient care. Recognizing the value of access to care, the locum tenens program has been around since the early days of Medicare. Now that medicine has evolved to fully recognize physical therapy as part of a comprehensive care model, it is high time that access to physical therapy also receive the same protections against delays due to unavoidable absences by their standard provider. H.R. 556, the Prevent Interruptions in Physical Therapy Act of 2015, would improve access to care by providing needed regulatory relief from an impediment caused by a simple technical issue. This fix will keep clinics open to provide our communities with medically necessary services. H.R. 556 would amend section 1842(b)(6) of the Social Security Act (42 U.S.C. 1395u(b)(6)) by adding a section that would allow physical therapists to enter into locum tenens agreements with other qualified physical therapists. This arrangement, common in medical practice, allows a health care provider to bring in another qualified provider on a temporary basis in cases of vacancy, illness, pregnancy, jury duty, or other temporary lack of adequate staffing in the clinic. This arrangement is available to other Medicare providers, but physical therapists in private practice are not included in the law that permits locum tenens.

The process currently works as follows: the patient's regular physician may submit a claim and, if the assignment is accepted, would receive the Part B payment for covered visit of a locum tenens physician who is not an employee of the regular physician and

whose services for patients of the regular physician are not restricted to the regular physician's offices, if:

- the regular physician is unavailable to provide the visit services,
- the Medicare beneficiary has arranged or seeks to receive the visit services from the regular physician,
- the regular physician pays the locum tenens for his services on a per diem or similar fee-for-time basis,
- the substitute physician does not provide the visit services to Medicare patients over a continuous period of more than 60 days, and
- the regular physician identifies the services as substitute physician services by entering the HCPCS modifier Q6 (service furnished by a locum tenens physician) after the procedure code in Item 24d on the CMS-1500 claim form or electronic equivalent.

The regular physician must keep a record of each service provided by the substitute physician on file, with the substitute physician's UPIN/NPI, and it must be available to Medicare upon request.

For many physical therapists in private practice, this means we are unable to be absent from the clinic, even in an emergency, without interrupting a Medicare patient's care. Such an interruption in a Medicare beneficiary's care results in gaps in treatment and potential regression in the patient's condition. When care is resumed, the Medicare patient is likely to require more care to achieve the therapeutic goals than would have been required had a locum tenens therapist been allowed to step in and continue the

treatment plan. Not allowing locum tenens arrangements for PTs has the potential to increase costs to the Medicare program, and delay the patient's full recovery.

It is currently possible to hire a substitute for planned leave by arranging in advance for a Medicare-enrolled physical therapist to be added to the practice's CMS certification. However, such an arrangement is not realistic for emergencies or a short-term option. The process is lengthy, complicated, and time-consuming, taking 2 to 3 months under the best of circumstances and requires an onsite visit, typically duplicating a visit the practice already would have received. Further, the process must be repeated for every provider absence, since Medicare certification lapses after a physical therapist has no associated billing with a practice for a certain period of time. This unwieldy time requirement is certainly a reason the majority of other Medicare providers are permitted to use locum tenens arrangements; it only makes sense that physical therapists are afforded the same option.

This limitation has real-world impact. Practicing in small rural communities, my colleagues and I are often the only physical therapists in the local area. When we are pulled away from the clinic for health reasons, which can range from caring for children or parents to personal health issues, the clinic has to shut down or take extraordinary measures to ensure patients maintain access to care. During a recent maternity leave, of one of my partners, I spent 12 weeks driving from my home, 3 hours away, sleeping at the clinic most nights, in order to help maintain patient loads at that clinic. This not only challenges the clinic operations but also begins to disrupt care. Locum tenens would

allow us to bring in licensed, qualified physical therapists to help meet these short-term needs and provide uninterrupted health care services in our communities.

This is an issue all across the country, but rural areas where I work are disproportionately impacted since there are shortages of other physical therapists in these areas. A locum tenens provider would be able to keep a small practice like mine open to serve rural patients who otherwise would have to travel long distances or forgo care. Locum tenens arrangements ensure that patient care does not lapse and that appointments continue as designated in the Medicare plan of care.

Under locum tenens, a clinic like mine would be allowed to bill and receive payment for the replacement therapist's services. This arrangement saves considerable time compared with hiring a new employee for the practice, especially for absences that are unexpected. Built-in safeguards control fraud and abuse as all locum tenens agreements must meet regulatory standards, including the identification of these services on the Medicare claim form and a 60-day limitation on the use of the provider. A substitute provider would likely be safer than bringing in an enrolled therapist. An enrolled therapist would bill under his or her own supplier number, and thus have access to all patient information. This information could, feasibly, be used for fraudulent payments in the future. A substitute therapist would simply see the patient and provide services without access to any payment information. Furthermore, a recent letter from the Centers for Medicare and Medicaid Services to Senator Charles Grassley highlighted that locum tenens as used by physicians under current law does not lead to an increase in utilization of services or to

unnecessary services, nor is the use of locum tenens generally inappropriate, wasteful, or fraudulent.

A 2015 survey shows how healthcare executives, physicians, and other health care professionals are using locum tenens arrangements at greater frequencies every year. The *2015 survey of Temporary Physician Staffing Trends*ⁱ, issued by Staff Care, suggests that the physician shortage is one major reason there is robust use of locum tenens providers. The top reasons for using locum tenens providers were filling in until a permanent doctor was hired, to fill in for someone that left, or to fill in for doctors that are on vacation or pursuing medical education. With the Bureau of Labor Statistics estimating that the employment of physical therapists projected to grow at 36 percent between 2012 and 2022ⁱⁱ, it is essential that current physical therapists can not only continue to cover patient load, but also to bring in help to bridge the gap that every clinic faces during the hiring process, just as our physician counterparts are able to do.

Having been involved in APTA's policy committee for several years, I am acutely aware of the scrutiny placed on legislation and its impact on the budget. In my experience, I cannot see how this would cost money; if anything, it should reduce costs in the long run. These are the same patients who would receive the same services regardless of which provider they see, and so utilization should be consistent. Moreover, preventing disruption of a Medicare patient's care should result in lower costs to the Medicare program.

I truly appreciate the committee's interest in addressing this regulatory burden that impacts access to care. I am hopeful this simple technical correction can be achieved, and that Medicare beneficiaries will be allowed to continue to access medically necessary physical therapist services without disruption. I look forward to working with the committee, and I am happy to answer any questions you may have.

ⁱ Staff Care, 2015 Survey of Temporary Physician Staffing Trends. Locum tenens. Staff Care, 2015. <http://www.staffcare.com/uploadedFiles/2015-survey-temporary-physician-staffing-trends.pdf>. Accessed September 28, 2015.

ⁱⁱ Bureau of Labor Statistics. *Occupational Outlook Handbook, 2014-15 Edition*. Physical Therapists. US Department of Labor; 2014. <http://www.bls.gov/ooh/healthcare/physical-therapists.htm>. Accessed September 28, 2015.