

**SPECIAL  
POINTS OF IN-  
TEREST:**

- GROSS RECEIPTS TAX DEDUCTION FOR PHYSICAL THERAPISTS (MEDICARE/TRICARE)
- THREE TIER SYSTEM FOR INSTRUCTIONAL SUPPORT PERSONNEL IN PUBLIC SCHOOLS
- CONGRESS PASSES BILL INCLUDING EXTENSION OF THERAPY CAP EXCEPTIONS PROCESS, FEE SCHEDULE PROVISIONS
- EDITORIAL

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# NMAPTA PRIME MOVER

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## SO YOU THINK YOU KNOW YOUR PRACTICE ACT?

*Most surveyed got it wrong !*

For the purposes of this article, I will focus on the Direct Care Requirements or what is commonly referred to as DIRECT ACCESS. This is described under Rule number 16.20.10.8.

The rule states:

- A. A physical therapist shall not accept a patient for treatment without an existing medical diagnosis for the specific medical or physical problem made by a licensed primary care provider, except for those children participating in special education programs in accordance with Section 22-13-5 NMSA 1978 and for acute care within the scope of practice of physical therapy. For the purposes of this subsection, "existing medical diagnosis" means substantive signs and symptoms consistent with the episode from a previous primary care provider diagnosis made or confirmed by that provider within the past twelve (12) months.
- B. When physical therapy services are commenced under the same diagnosis, such diagnosis and plan of treatment must be communicated to the patient's primary health care provider at intervals of at least once every sixty (60) days, unless otherwise indicated by the primary care provider. Such

communication will be deemed complete as noted in the patient's medical record by the physical therapist.

The rule allows **any** patient to receive treatment from a licensed physical therapist **without** a referral from a physician. It stipulates if you are seeing a patient for other than an acute injury, that patient must have a medical diagnosis by a primary care provider in the past 12 months, and the physical therapist must provide communication to that provider at least ever 60 days that the patient is being treated by the physical therapist. This does not mean that the physician must authorize the care, or even agree with the care. Although if disagreement arises, it would behoove the therapist to resolve the issue. The medical diagnosis may be provided to the physical therapist by the patient requesting treatment.

Children in special education programs under Section 22-13-5 NMSA 1978 are exempted from the requirement of a medical diagnosis.

Further, the documentation supporting communication with the physician is sufficient if noted in the patients physical therapy medical record and does not

require signoff or acknowledgment by the primary care provider.

In my clinics, we see many patients via direct access. We always send a copy of our evaluation and plan of care to the patient's primary care provider out of courtesy, and in the interests of continuity of care. The only exception to this is an acute injury in which the patient states they have no primary care provider.

I think the confusion that many have about DIRECT ACCESS is mistaking the payor requirements, and some institutional policies, with practice act requirements. Many institutions such a hospitals or corporate rehab, still require a physician referral to accept a patient for care as a policy. Many payors also utilize a physician referral as a "gatekeeping" system to access a patient's benefits. This is changing, though. Within the past year we have seen Lovelace Health Plan and United Healthcare drop the requirement of physician referral and allow patients direct access to physical therapist services.

I hope this clarifies this aspect of our practice act but if not feel free to contact me through the NMAPTA.org website.

*Mary Lou Langford, PT*

## New Mexico Chapter, APTA— Call for Nominations

The New Mexico Chapter, APTA invites its members to answer the call for Nominations for an elected position in the Chapter. In order for our profession and Chapter to meet the challenges of this every-changing health care environment, members must be willing to give their time and talents to Chapter activities. Our organization needs strong, proactive leaders to guide us through the changes.

The following positions will be open for election in April 2007:

**President**  
**Vice President**  
**Secretary**  
**Board of Director Members**  
**Nominating Committee**  
**Members**  
**Delegate**

Nominate either yourself or a qualified member of the Chapter for this service opportunity. All offices are for a two-year term except Nominating Committee Member which is for a three-year term. For more information about each of these open positions, please contact a member of the Nominating Committee:

Vincent Amendalogine, PT  
amendologine@juno.com

Wendy Bircher, PT  
bircherw@sanjuancollege.edu

Kim Osborne, SPT  
kim@leaco.net

Please forward nominations and requests for Consent to Serve and Biography forms to Katie Harvey at Katieharvey@apta.org or call 800/999-2782, ext. 8506.

### BECOME E-LITERATE!

- ⇒ SEND US YOUR EMAIL ADDRESS
- ⇒ SAVE THE WEBSITE TO YOUR FAVORITES

Just email  
evanjones@iname.com  
Member or not, we want to hear from you!

Save nmapta.org as a favorite on your computer . . . .AND CHECK IT EVERY PAYDAY!

## evidence in practice

In researching through databases for evidence based treatment approached for knee pain, specifically anterior knee pain, I came across some interesting information. The two primary websites I used were the APTA's Hooked on Evidence, and EvidenceinMotion.com.

Everything we hear about closed chain exercises with patellofemoral pain has been challenged in a Critically Appraised Topic (CAT) by 1st LT Michael Crowell, PT titled **"Closed and open chain strengthening exercises equally effective in improving pain & function in PFPS patients."**

The clinical question was: In a younger patient with patellofemoral pain syndrome, are closed-chain exercises more effective than open-chain exercises in reducing pain and increasing functional ability?

The study group of 60 patients who met the criteria, with an average age 14-33, was divided equally. Have completed the closed chain program and half the open chain program. The programs were as follows:

Closed Chain (control group): 3x/wk X 5 weeks. 3 sets X10 reps with 1 minute rest period. Exercises

## patello-femoral pain syndrome

consisted of : seated leg presses, 1/3 knee bends on one leg & both legs, stationary bicycling, rowing-machine exercises, step-up & step-down exercises, and progressive jumping exercises.

Open Chain (experimental group): 3x/wk X 5 weeks. 3 sets of 10 reps with 1 minute rest period. Exercises consisted of: quadriceps muscle setting, SLR, short arc quads from 0-10 degrees, and leg adduction exercises in lateral decubitus position.

The "clinical bottom line" was

1. there was statistical improvement in both groups.
2. There was almost no difference between open and closed chain exercise in terms of pain & function, which contradicts recent allegations that open-chain exercises should be avoided in PTPS.
3. The best program would probably combine both open and closed chain exercise.

\* *More research is needed to validate this study.*

Composited by Mary Lou Langford PT

## Gross Receipts Tax Deduction for Physical Therapists (Medicare/Tricare)

The New Mexico Chapter of the American Physical Therapy Association (NMAPTA) and Desert States Physical Therapy Network (a statewide network of PT-owned private practices) are working together to pass legislation for a deduction in GRT on PT services on Medicare and Tricare receipts.

### Background:

In 1998, the state legislative body passed a bill giving physicians (MD's and DO's), and hospice providers a GRT deduction on their Medicare and Tricare receipts. In 2003, home health care agencies, podiatrists and clinical laboratories were added to this list of providers.

Physical therapists are still required to pay gross receipts on their Medicare and TriCare receipts. However, referral-for-profit/ physician-owned physical therapy clinics DO enjoy a deduction on Medicare and Tricare receipts.

A GRT Deduction for Medicare and Tricare services provided by Physical Therapists will benefit New Mexicans because:

### There is a severe shortage of physical therapists nationwide even as the demand for services increases with an aging population -

A recent survey by the American Physical Therapy Association showed that the physical therapy profession retains a 0.2% unemployment rate. Recruitment of new therapists to our state is very difficult; simply because there just aren't enough to go around. And, as difficult as it is to recruit in a large urban city, this issue is even more critical in the numerous rural areas of our state. **The deduction would level the recruitment playing field, especially given that referral-for-profit / physician-owned clinics currently receive this tax deduction.**

### The tax deduction would allow the outpatient clinics to create more jobs -

The deduction would also allow employers of physical therapists to increase compensation for better staff retention. Additional jobs will help to meet the health care needs of New Mexicans and better paying jobs cycle more income back into the community, adding to our state's tax base.

### The FIR estimate indicates the cost is low-

according to a 2004 FIR from the NM Dept of Taxation and Revenue, the fiscal impact would result in a \$170,000 loss of tax revenue to the state. This exemption would be a very minimal impact to the municipalities that use GRT revenues.

For more information please contact Pat Bartels, PT, OCS, NMAPTA Legislative Chair, 505-256-0816 or [pbartels8@comcast.net](mailto:pbartels8@comcast.net) or Amy C. Dixon, Executive Director, Desert States Physical Therapy Network, 505-259-1471 or [amy@dsptnetwork.com](mailto:amy@dsptnetwork.com).

## Open Door: APTA's Portal to Evidence-based Practice

As a member of the NMAPTA you now have access to APTA's search engine to help find evidence to support treatment of your patients. To access the search engine, go to [www.apta.org](http://www.apta.org), click on "login" in the upper right corner. Login with your member number and name. Click on "research" in the left Area of Interest column. That will take you more options in the midpage, of which Open Door is one. Click on Open Door to get to the search engine. The following is what you can expect to find access to using Open Door:

### Research Journal collections

[ProQuest Health & Medical Complete](#) and [ProQuest Nursing Journals](#).

These databases serve the

whole spectrum of users looking for healthcare information — allied health, medical, and nursing professionals; planners, administrators, and other researchers in healthcare business and finance. Searchers have access to more than 1,000 publications in complete text and images. Search both collections to maximize your results.

[Cumulative Index to Nursing and Allied Health Literature®](#) (CINAHL®)

CINAHL® is the premier database for bibliographic information about nursing and allied health research literature and topics. It indexes more than 2,800 journals and other periodicals from the fields of nursing and 17 allied

health disciplines. The database contains more than 1,000,000 abstract records dating back to 1982.

### Open access Web directories and resources

Look for free full-text access to journal articles at these Web sites [BioMed Central](#), [Directory of Open Access Journals](#), [Findarticles.com](#), [Free Full Text](#), [Free Medical Journals](#), [Highwire Press](#), [Public Library of Science](#) (PLoS), [PubMed](#), [PubMed Central](#), [SciELO](#).

### APTA Journals

*Physical Therapy: the Journal of the American Physical Therapy Association.*

APTA's Physical Therapy Journal is available through [ProQuest](#) and [APTA](#).

### APTA Section Journals

Unless a ProQuest link is provided, section membership is required in order to view a section's journal: *Cardiopulmonary Physical Therapy Journal* • *HPA Journal: a supplement to HPA Resource* • *Journal of the Aquatic Physical Therapy Section* • *Journal of Geriatric Physical Therapy* • *Journal of Neurologic Physical Therapy* • *Journal of Orthopaedic & Sports Physical Therapy* • *Journal of Physical Therapy Education* • *Journal of Women's Health Physical Therapy* • *Orthopaedic Physical Therapy Practice* • *Pediatric Physical Therapy* • *Rehabilitation Oncology*.

## Three Tier System for Instructional Support Personnel in Public Schools

The New Mexico Occupational Therapy Association and the New Mexico Physical Therapy Association would like to work with legislators and the Public Education Department to develop criteria to support our inclusion in a career ladder and salary schedule similar to that of New Mexico teachers.

There are several unique characteristics to our professions that should be kept in mind as legislation is proposed. Our primary training is medical and physical and occupational therapists work in a variety of settings such as hospitals, pediatric clinics, rehabilitation centers, nursing homes and schools. These important differences may have an effect on the ability of school districts to recruit and retain therapists as employees. Any legislation for a salary schedule for PTs and OTs should take into consideration the following:

**Reciprocity for work experience for non-school settings** - There is a great deal of value to having experienced, highly qualified therapists working with our children in the public schools. Therapists who have experience in other settings are fully qualified to provide services in the public schools and often provide diverse skills that are very valuable to the children and to the other staff. It is important that professional experience be

considered in determining placement for PED licensure levels. Education and licensure requirements for OTs and PTs are unique and different than those of teachers and the PED license should reflect that.

**Entry-level qualifications for OTs and PTs** - Historically, there have been a variety of educational paths for our professions that have included a four year or higher college degree and clinical internship. The common outcome is that graduates must meet the same requirements to sit for the one national licensure exam for our respective professions. This national exam must be passed prior to being fully licensed by the NM Board of Examiners. Licensure (without regard to the specific degree) has traditionally held equal value in matters of salary levels for all employment settings. Therefore, we would like all OT's and PT's to be treated equally for PED licensure levels, regardless of educational pathway.

**Recruitment of new graduates** - It is important that we be able to continue to attract new graduates to the public schools. If the proposed minimum salaries are attached to legislation, the \$30,000 beginning salary will make it difficult to attract OT's and PT's. Entry-level therapists in New Mexico typically earn salaries that are at least 42% higher than this (data

attached). The 3 Tier Level 1 minimum salary of \$30,000 may make it difficult for school districts to attract new graduates.

We will be happy to provide other more detailed information and to be of assistance in this process. Thank you for your efforts on behalf of New Mexico's public school students.

NM Occupational Therapy Association  
Ellen Reavis, OTR/L  
3304 Valley Haven NW  
Albuquerque, NM  
505-681-4488 (cell)  
[rthermaude@comcast.net](mailto:rthermaude@comcast.net)

NM Physical Therapy Association  
c/o Liz Thomson, PT  
1216 Westerfeld NE  
Albuquerque NM 87112  
505-239-1781 (cell)  
[leonliz@flash.net](mailto:leonliz@flash.net)

**Save the date!**

APTA's 17th Annual  
State Government Affairs Forum  
Albuquerque, New Mexico  
from September 23 to September  
25, 2007 at the Sheraton  
Albuquerque Uptown Hotel.

## Federal Government Affairs Update— Submitted by, Sahreem Luergan, PT

**APTA members spoke out for their profession and their patients. And Congress heard them in a big way!** On December 8, the US House of Representatives passed HR 6111, the Tax Relief and Health Care Act of 2006, and the Senate followed by passing the bill December 9. This legislation will now be forwarded to President Bush for his signature. It includes provisions essential for Medicare beneficiaries to maintain access to needed physical therapy services.

The Tax Relief and Health Care Act of 2006, now awaiting the President's signature, contains the following provisions to ensure Medicare patient access to physical therapy services provided by physical therapists.

- A 1-year extension for the Calendar Year 2007 (CY 2007) of the therapy cap exceptions process as authorized by the Deficit Reduction Act (DRA).
- A 1-year freeze on the conversion factor in the Medicare Physician Fee Schedule (MPFS) for CY 2007, reversing the 5.1% scheduled reduction in payments to providers who bill by the MPFS. In addition to freezing the conversion factor at the 2006 level, Congress also authorized a 1.5% bonus for providers who report on quality measures beginning July 1, 2007. Physical Therapists are eligible providers under this quality reporting system.
- A 1-year extension for CY 2007 of the minimum 1.0 floor in the Geographic Practice Cost Index (GPCI) under the MPFS. This reverses a scheduled reduction in payment to the 51 rural localities where the GPCI is below 1.0.

**Medicare Payment Reform:** The physician fee schedule formula that is used to determine payments to physicians and other health care practitioners such as physical therapists is called the Sustainable Growth Rate (SGR). Congress has managed to prevent cuts in payments of between 4-5% over the past several years and freeze 2006 payments at the 2005 level but due to recent increases in utilization outpacing inflation, the

SGR will trigger severe reductions in payments over the next several years including a 5% projected reduction in 2007. In addition to this reduction, the Centers for Medicare and Medicaid (CMS) are also implementing a budget-neutral 5 year review of the work value and practice portions of the fee schedule. The combined SGR and 5 year review changes result in a 10% cut in payments to physical therapists.

Congress is currently considering legislation to address this flawed formula. The ***Preserving Patient Access to Physicians Act of 2005 (H.R. 2356)*** introduced by congressmen Clay Shaw and Ben Cardin repeals the SGR and replaces it with an annual Medicare payment update for physical therapists that reflects practice cost increases. H.R. 2356 would provide PTs with a payment update of no less than 2.7 percent in 2006, with the annual update beginning in 2007. ***“Keeping Seniors Safe From Falls Act” (H.R. 5608 /S. 1531)*** This bill was introduced in the house on June 14, 2006. It was referred to the house sub-committee on Health and was passed out of committee but no action was taken on it on the house floor before congress adjourned for elections in November. The senate bill was introduced in July 2005, in an effort to provide education, outreach, research, and programs to reduce falls in older Americans. The bill would study the effects of falls on healthcare costs and appropriate \$35 million for each fiscal year between 2007 through 2010 to support fall prevention.

**Medicare Direct Access (H.R. 1333/S.647)** continues to build support with 156 members of the house and 15 members of the senate but so far only Representative Steve Pearce has signed on as a co-sponsor in New Mexico. **We need to contact our legislators and ask them to co-sponsor this bill so we can move this legislation forward to improve patient access to outpatient PT services under Medicare.**

**“Incident to” Update:** On September 28, 2006, Senator Craig Thomas

(R-WY) introduced legislation entitled the *“Access to Physical Medicine and Rehabilitation Services Improvement Act of 2006” (S.3963)*. This legislation was designed to achieve two objectives: to rescind the Medicare “incident to” regulations that require that physical therapy provided “incident to” a physician's services be provided by a qualified physical therapist; and to establish a new Medicare Part B benefit that would allow coverage of athletic trainer services furnished by athletic trainers and lymphedema services furnished by lymphedema therapists to be billed as physical therapy services. APTA strongly opposed this legislation and believes it misleads beneficiaries. At this time, this legislation does not have a co-sponsor in the House and only one co-sponsor in the Senate, Senator Arlen Specter (R-PA)

**Medicaid Update-**On September 6, 2006, the APTA submitted recommendations for reforming the Medicaid program to the Medicaid Commission. One concern raised in this report was that since physical therapy is considered an “optional” service under Medicaid and only covered in 37 states, it would be marginalized in an attempt to cut costs and children and people with disabilities could fall through the cracks and develop more severe health outcomes. Three different models that are currently being considered for implementation nationwide were introduced and recommendations were made for each model. Some of the recommendations include standardizing documentation, incorporating health information technology and pay for performance standards, improving access to durable medical equipment, focusing on long-term care and utilizing the Targeting Case Management program within Medicaid. For more information on this report, contact Roshunda Drummond-Dye, Esq. Associate Director of APTA Regulatory Affairs at (703) 706-8547 or [rushundadrummyd@apta.org](mailto:rushundadrummyd@apta.org) To contact your legislator on any of these issues, go to the APTA Legislative Action Center at [www.apta.org/advocacy](http://www.apta.org/advocacy).

# From the NMAPTA President

Please join me in welcoming Katie Harvey as our new Executive Director. Katie, part of APTA's Component Services staff, will be working with NMAPTA as we continue to update and expand. Those of you who attended our Fall Conference may have already met her, and those of us who have worked on projects with her know how valuable she already is to our organization!

The NMAPTA Board of Directors continues to work on projects that make your membership even more valuable. We have several new board members we would like to welcome – Matt Posinski, Liz Thomson, Claudia Segura, Debi Reese, and David Kennedy. Along with the existing board members, they will be updating both our Strategic Plan and Policies/Procedures by the end of the year. The Executive Committee will also be taking recommendations for changes/updates to our Bylaws, which will then be sent to APTA for review.

The Legislative Panel task force has been interviewing lobbyist candidates to replace Linda Siegle (see Pat Bartel's report in this issue) and has made a recommendation to the Executive Committee.

The Education Panel is to be congratulated on a great Fall Conference – I know those of you who attended were impressed with the content and quality of speakers. Also, we have a task force working on a proposal to transition the CEU-approval process for the NM Physical Therapy Licensing Board to NMAPTA. As you can see, we are always trying to move forward and provide education and support to NM physical therapists.

I appreciate those of you who have contacted NMAPTA with questions, concerns, and suggestions. We are always trying to improve, and your feedback is very helpful. Please consider taking the time to volunteer to help with NMAPTA

activities. The nominating committee will be working in early 2007 to present a slate of candidates for the Spring Elections and we need everyone's help, so think about running for office. We also welcome people to volunteer on specific projects without being a board member, i.e. conferences, legislative issues, etc. If you have a specific area of interest, I promise you that we have a project you could work with us on. Please contact me at [kparkerg@chs.net](mailto:kparkerg@chs.net) if you are interested in volunteering to run for office or if you have questions, suggestions, or feedback.

All of us at NMAPTA wish you a safe, restful Holiday season!

Sincerely,  
Kim

*Kim Parker-Guerrero, PT*  
NMAPTA President



## State Government Affairs Update— Submitted by, Pat Bartels, PT

**NMAPTA announces the hiring of Bryan Ortiz as our lobbyist** – Bryan starts as of November 27<sup>th</sup>. He has extensive health care and legislative experience. He secured the gross receipts tax deduction for hospices and nursing homes. We are confident that he will do a first-rate job in representing NMAPTA at the state Legislature.

**Contact your state Senator and Representative prior to the opening of the 2007 State Legislative session on January 16, 2007** – let them know that we will be at the session lobbying for our issues – a deduction of the gross receipts tax on Medicare and Tricare services; implementation of a three tier salary scale for providers in the public schools; and opposition to the creation of a super board for professional licensure. More information will be sent by email. If we don't have your email please contact [pbartels8@comcast.net](mailto:pbartels8@comcast.net).

**PT Licensing Board** - NMAPTA is submitting a proposal to assume the CEU Approval process. At this time there is no scheduled Licensing Board meeting for consideration of rules changes. Angel Roybal has resigned as Executive Director and we are waiting for a new appointment. We will continue to monitor the activities of the Licensing Board.

**State candidate legislative surveys** – surveys were mailed to 97 candidates running for State House seats in the November election and there were 22 responses. Overall, the response was favorable to our issues, but it showed the need for further education of some legislators. This is the first survey of this type sent by NMAPTA and it's a great way to increase the exposure of the PT profession and educate legislators.

**Task Force surveys on Direct Access (DA) and Referral for Profit (RFP)**- surveys were mailed to 297 PTs on our membership mailing list. 135 responses were received, a

turn of over 45% - excellent! The Task Forces are in the process of compiling and analyzing the responses. A preliminary report on the RFP survey was made available at the Business meeting in September. The analysis for the DA survey is in process. Both Task Forces will continue to work on their "next steps".

**2007 State Government Affairs Forum will be held in Albuquerque** - Sunday, September 23 - Tuesday, September 25 at the Sheraton Albuquerque Uptown. This is a wonderful opportunity for NMAPTA and we hope to have good representation from PTs and PTAs in the state. More information will be sent at a later date. Expect to hear great speakers on the hot issues of Direct Access and Referral for Profit, plus more!