

## APTA Advocacy Network Newsletter — January 2023 Edition

### Welcome to the 118th Congress

With the start of 2023, the 118th session of the U.S. Congress has begun. The new Congress includes many new faces as well as a change in power in the U.S. House of Representatives, with Republicans taking over the Speaker's gavel and House committees. Two House committees that play pivotal roles in any health care legislation are the House Ways & Means Committee and the House Energy & Commerce Committee. Of note, Rep. Jason Smith, R-Mo., is the new chair of the House Ways & Means Committee. He was the lead Republican sponsor of the APTA-supported legislation in the last session of Congress known as the SMART Act (H.R. 5536), aimed at addressing the PTA payment differential and supervision requirements. The new chair of the House Energy & Commerce Committee is Rep. Cathy McMorris Rodgers, R-Wash. She was the original Republican sponsor of the Allied Health Workforce Diversity, which was enacted into law last month.

As in previous years with the start of a new Congress, APTA will release its 2023-24 Public Policy Priorities in early February. APTA's Public Policy Priorities document is a key tool in delivering our message to legislators and policymakers. The priorities distill the association's wide-ranging advocacy efforts into a concise outline of our vision for the profession and the broader health care landscape. They provide decision-makers with an easy-to-understand roadmap of where we think our country needs to go and serve as a starting place for deeper conversations. This document is revised every two years to coincide with the start of a new Congress. As in the past, the policy priorities were developed by the APTA Public Policy Advisory Committee, with input from a range of member experts and advocates. The 2023-24 APTA Public Policy Priorities will be shared with all lawmakers on Capitol Hill as well as various federal agencies, including the U.S. Centers for Medicare & Medicaid Services. Be on the lookout for the release on this publication in the weeks ahead.

A major focus of APTA in the new 118th Congress will continue to be Medicare payment reform. APTA is working with other health care provider groups in pushing Congress to engage with stakeholders and hold hearings on ways to address the crisis caused by year-over-year cuts to dozens of providers under the Medicare Fee Schedule. While we appreciate the temporary boosts in funding by Congress to mitigate cuts over the past few years, the situation has only spotlighted the fact that the Medicare Fee Schedule is in need of major reforms, as the current payment structure is unsustainable and is failing providers and the patients we serve. Earlier this week, [APTA joined over 100 provider groups in a letter to members of Congress highlighting these concerns and urging action.](#)

Of course, with the start of a new Congress, any bills that did not pass last year have to be reintroduced. Be sure to read the article in this newsletter that provides highlights of the year-end omnibus package that Congress passed in December and the APTA-supported items that were included. APTA is working to have all of its APTA priority bills reintroduced in the new 118th Congress, including APTA-supported legislation that would change the current outdated "direct supervision" requirement of PTAs in private practice to general supervision. This bill was under consideration for inclusion in the sweeping omnibus legislation passed in December but unfortunately did not receive a score from the Congressional Budget Office in time. Other bills APTA is working to have reintroduced include:

- [The Medicare Patient Empowerment Act](#). This bill allows a Medicare beneficiary to enter into a direct contract with an eligible provider, including physical therapists, for any item or service covered by Medicare, otherwise known as "opting out" of Medicare.
- [Physical Therapist Workforce and Patient Access Act](#). This bill would allow PTs to participate in the National Health Service Corps loan repayment program, an initiative that repays up to \$50,000 in outstanding student loans to certain health care professionals who agree to work for at least two years in a designated Health Professional Shortage Area.
- [Expanded Telehealth Access Act](#). This bill instructs CMS to permanently adopt what is now a temporary waiver of restrictions on Medicare payment for telehealth delivered by PTs and PTAs and other therapy providers.
- [Prevent Interruptions in Physical Therapy Act](#). This bill expands the ability of PTs to engage in "locum tenens" to all PTs. Currently, only PTs in rural and underserved areas are allowed to arrange for another qualified PT to treat their patients during a temporary absence due to illness, vacation, continuing education, pregnancy, and other events, and still receive payment from Medicare.
- [Primary Health Service Enhancement Act](#). This bill would expand patient access to essential physical therapist services to children and adults who receive care at rural health clinics and federally qualified health centers, also known as community health centers.
- [Optimizing Postpartum Outcomes Act](#). This bill directs the HHS Secretary to develop several provisions that would significantly strengthen Medicaid's emphasis on pelvic care for individuals in the postpartum period. The legislation includes pelvic floor physical therapy among the pelvic floor services that would be covered under Medicaid and the Children's Health Insurance Program.
- [States Handling Access to Reciprocity for Employment Act](#). This bill addresses the use and sharing of information related to FBI background checks with state licensure boards and interstate compact commissions.
- [Improving Seniors' Timely Access to Care Act](#). This legislation would reduce administrative burden by scaling back the use of prior approval in Medicare Advantage plans.

Other issues we anticipate in 2023 include efforts to address full funding for the Individuals with Disabilities Education, orthotics and prosthetics under Medicare, 2024

appropriation bills aimed at funding for the National Institutes of Health, Centers for Disease Control and Prevention, and Veterans Administration, among others.

At the state level, APTA State Affairs is working with our state chapters as they begin work on the 2023 state legislative sessions. A number of state chapters will be pursuing state legislation aimed at addressing prior authorization with commercial payors, adding the ability of PTs to order imaging, fair PT copays, removal of provisions tied to treatment via direct access, adding PTs to the list of providers who can determine disability for the purposes of DMV disability placards, Medicaid payment, and expansion of the PT Interstate Licensure Compact, just to name a few. In case you missed it, be sure to [listen to this APTA podcast](#) that highlights some of the 2022 wins at the state level, and a preview of 2023 issues.

The start of a new Congress and state legislative sessions brings new opportunities, as well as challenges. APTA has an aggressive policy agenda with many priority bills to address payment, administrative burden, student loan debt, scope of practice, and much more. This work would not be possible without APTA members. Membership in APTA matters. Without membership, there is no advocacy to advance the physical therapy profession. Your membership, your voice, your advocacy matters.

Thank you for your advocacy and dedication to the physical therapy profession and for being a member of APTA!

Justin Elliott, Vice President, Government Affairs

## **Congressional Update**

In December, the U.S. Congress approved an end-of-year sweeping omnibus legislation that incorporates elements of multiple bills whose fates hadn't been resolved. While the resulting last-minute legislative mixed bag is short on fee schedule fixes, the bill does include APTA-supported gains in other areas including telehealth, workforce diversity, lymphedema treatment, and the role of PTs and PTAs in the Department of Veterans Affairs. The legislation was signed into law by President Biden on Dec. 29, 2022.

### **2023 Medicare Fee Schedule**

For the health care provider community, the most significant feature of the omnibus package — the provision of a 2.5% conversion factor funding increase rather than the needed 4.5% infusion — was the final chapter in a yearlong fight to convince Congress to once again intervene to buffer the harm included in the 2023 Medicare Physician Fee Schedule.

As it has for the past two years, in 2022 the U.S. Centers for Medicare & Medicaid Services finalized a fee schedule for 2023 that offsets increases to payment for codes related to evaluation and management with significant cuts to the conversion factor, a key element used in determining payment associated with codes used by a wide range of providers.

APTA and 100 other provider and patient organizations joined in [an effort to press Congress to provide a 4.5% spending increase](#) to fully offset the fee schedule cuts. In the end, rather than stepping in at the eleventh hour to provide full or nearly full offsets as it did for the past two years, Congress opted to scale back the relief.

While the 2.5% funding increase will lessen the severity of the cuts, providers will still be left to deal with reductions just as the country's health care system continues to recover from the coronavirus pandemic. The response from provider groups was immediate, with organizations such as the [American Medical Association](#) and the [Surgical Care Coalition](#) expressing their frustration at Congress' failure to provide the full 4.5% funding.

In a [statement released Dec. 20](#), APTA President Roger Herr, PT, MPA, voiced the association's "dismay at Congress' failure to fully commit to protecting patient access to needed care," and vowed to continue the fight to address the true problem — a Medicare fee schedule system in need of reform.

"This spending bill underscores our belief that the entire fee schedule system needs an overhaul," Herr stated. "Providers should not be made to carry an outdated system's dysfunction on their backs, and we cannot expect Congress to come to the rescue year after year."

### **Amid the Disappointment, Some Bright Spots**

Among the most significant: APTA-supported legislation that provides a two-year extension of telehealth services under Medicare, including those provided by PTs and PTAs. Currently, the telehealth provisions are tied to the public health emergency, with the special provisions ending 151 days after the PHE is declared over. Under the package, those allowances would continue until Dec. 31, 2024, at the earliest.

### **Other wins include:**

**Stepped-up emphasis on physical therapy in the Department of Veterans Affairs.** The omnibus package includes language APTA was successful in having added to the 2023 VA appropriations bill requesting VA ensure treatment alternatives to opioids, such as physical therapy, are available to veterans where they are most needed. VA is also asked to examine how more competitive pay for PTs and PTAs can help increase patient access to physical therapy, and how the Health Professions Scholarship Program can be expanded to include PTs. The language also directs VA to develop a staffing plan on how to employ PTs and PTAs within primary care, rural health, women's health, and other areas.

**Home health research.** Lawmakers included language that would require CMS to share its simulations on what home health pay would look like under the previous Medicare home health pay system, compared with the Patient-Driven Groupings Model now in use. Home health providers have raised numerous concerns with how CMS has come up with the 7.9% behavioral adjustment cut to the 30-day pay rate, which CMS says is needed to keep pay budget-neutral between the old pay system and the PDGM. The agency said in its 2023 pay rule it would phase in the cuts so only 3.5% are set to go into effect next year, and home health providers are set to get a 0.7% pay bump overall for 2023. The bill also asks CMS to provide a description of

actual behavior changes between 2020 and 2026 that were the result of the new pay system.

**Workforce diversity.** The APTA-supported Allied Health Workforce Diversity bill was included in the omnibus package. This legislation will create a new grant program for accredited PT and PTA education programs to offer scholarships and stipends to recruit and retain individuals who are underrepresented in the field of physical therapy, including individuals with disabilities, from ethnic and racial minority populations, and from disadvantaged backgrounds.

**Deferred PAYGO-related reductions.** In its final package, Congress deferred the implementation of a federally mandated "pay-as-you-go" deficit control budget rule until 2025. That rule, now off the table for two years, will require increases in the federal deficit to be offset by increased revenue or cuts to spending and includes a 4% cut to Medicare.

**Lymphedema treatment.** The final package folds in provisions of the Lymphedema Treatment Act, which expands Medicare coverage for lymphedema-related pressure garments. The new coverage will go into effect in 2024 and could affect more than 3 million Medicare beneficiaries.

**Funding for NIH.** The bill provides \$47.5 billion for the National Institutes of Health, an increase of \$2.5 billion or 5.6%. APTA joined with provider groups earlier this year in encouraging Congress to provide an increase to NIH's 2023 budget. APTA supported this increase through our work with the [Disability Rehab Research Coalition](#).

**Funding for pediatrics.** The bill also includes \$15 billion in funding for 2023, an increase of \$904 million, or 6%, for special education state grant programs that support services to an estimated 9 million students and children with disabilities, including those participating in early intervention and preschool programs.

**Funding for the Centers for Disease Control and Prevention.** The bill includes \$9.2 billion for CDC, an increase of \$760 million above the 2022 fiscal year level. This includes \$903 million in transfers from the Prevention and Public Health Fund. More than half of the increase is directed to significant investments in our nation's public health infrastructure. APTA supported this increase through our work with the [CDC Coalition](#).

## State Update

### State Affairs: New Year, New Initiatives 2023

Happy New Year from the State Affairs department of APTA!

Most state legislatures are currently open and in session. So far, the 2023 legislative season is proving to be very active! Our department has recorded a wide range of

legislation our state chapters have identified. Here is a list of a few subjects our state chapters will be promoting or opposing this legislative season:

- Fair copay
- Utilization management/prior authorization
- Direct access
- PT compact
- Dry needling
- Disability placards
- Workers' compensation
- Board consolidation/independent boards
- Spinal manipulation
- Rural tax credits

In addition, there are now 10 states introducing compact legislation in 2023: Alaska, Connecticut, Florida, Illinois, Maine, Massachusetts, Michigan, Minnesota, Nevada, and Rhode Island.

Our department recognizes that we can only achieve our mission through ongoing conversation, collaboration, and partnership with our state chapters. If you are in need of any assistance from the State Affairs department, please email [advocacy@apta.org](mailto:advocacy@apta.org).

## Grassroots Update

### Advocacy Couldn't Be Easier With the APTA Advocacy App

Most of us have our phones on us all day, every day. Instead of scrolling Instagram or Tik Tok for what seems like the millionth time, why not learn more about APTA advocacy and how you can impact the future of the profession?

Download the APTA Advocacy app, which is available for free on the [App Store](#) and [Google Play](#). The app features links to the Legislative and Patient Action Centers, where you can send a prewritten letter directly to your members of Congress in minutes. Be sure to check out the Congressional Directory, which is a state-by-state list of all members of Congress and see which APTA priority legislation they co-sponsor (or not co-sponsor!). You also can sign up for the APTA Advocacy Network, donate to PTPAC, and submit a report if you have an interaction with a member of Congress.

The app is a useful tool in your advocacy work all year long — [download it today!](#)

### Shape the Future of the PT Profession With the Student Advocacy Challenge

Students and PT schools are encouraged to participate in the 2023 [Student Advocacy Challenge](#). This contest, for PT and PTA students and programs to participate in advocacy activities, is a first step in career-long advocacy engagement. Activities can be as simple as sending a letter to a member of Congress or as interactive as hosting

a member of Congress at their school. Participants can submit their activities through the [APTA website](#) or [APTA Advocacy App](#). The winning program will not only get bragging rights but will be featured on APTA's website and will receive a virtual or in-person presentation by an APTA staff or Board member of the program's choice. The 2022 winning school was Mercer University in Atlanta, Georgia. [Learn more about their year of advocacy engagement and how they became the 2023 champions.](#)

## PTPAC Update

### Dancing With the (PTPAC) Stars: Don't Miss the Party in San Diego

Attending the 2023 APTA Combined Sections Meeting in San Diego, Feb. 23-25? Be sure to polish those dance moves before you come, because you're going to need them to help celebrate [PTPAC's](#) golden anniversary in style — at a Friday night party featuring food, drink, and [live music from Liquid Blue](#), billed as "America's most prolific party band."

The party, set for Feb. 24, will run from 9 p.m. until midnight at San Diego's famous [House of Blues](#). Tickets are \$100 for PTs and PTAs and \$50 for students, with all ticket sales supporting PTPAC, the APTA group that builds relationships with members of Congress and advances the profession's priorities on Capitol Hill. Tickets are available for purchase when [registering for APTA CSM](#), at the PTPAC booth in the exhibit hall, and at the event itself — while supplies last. Eagle Club members may contact Michael Matlack ([michaelmatlack@apta.org](mailto:michaelmatlack@apta.org)) to reserve your one free ticket to the event.

Can't make it to the event but want our voice to be heard on Capitol Hill? You can still [support PTPAC](#).

*Contributions to PT-PAC are not tax deductible as charitable contributions. Contributions are voluntary. Your contribution will be used to support candidates for federal office who support physical therapy issues. The amount given by the contributor, or the refusal to give, will not benefit or disadvantage the person being solicited.*