July 9, 2018

Clarissa M. Rodriguez, Chair
New York State Workers' Compensation Board
328 State Street
Schenectady, NY 12305

Dear Chair Rodriguez:

Thank you for the opportunity to comment on the Workers' Compensation Board's recently issued fee schedule proposal. The proposal as published represents a significant step toward a more equitable and efficient rate system, and reflects well the comprehensive and dutiful process the Board has engaged in to address this critical issue.

Upon initial review the proposed rate increases for physical therapist (PT) services would appear meaningful. While NYPTA and our membership are grateful for the increases, there are several powerful mitigating factors that undermine the beneficial impacts of the Board’s proposal.

Notably, the proposal leaves in place the 8 RVU cap for follow-up PT services, which functions as a barrier to medically necessary physical therapy care and significantly reduces the net value of the proposed rate increase by as much as 50%. New York is unique in its overly restrictive cap on physical therapist care. Based on a comprehensive review, we have concluded that no other state in the nation imposes such a strict RVU cap. In the limited number of states that do utilize an RVU cap, the cap is set at 16 RVUs for follow-up visits.

The RVU cap is a cost containment mechanism set in place during a time when the critical value of PT services to injured workers was not as well understood as it is today. The RVU caps predate the adoption of treatment guidelines which set forth visit limits per condition. Moreover, the treatment guidelines are based on other state guidelines without similar caps on the intensity of services rendered during a physical therapy visit. Thus, the RVU cap is unnecessary and counterproductive to increasing access to medically necessary physical therapy care with the implementation of the treatment guidelines. The combination of the two significantly restrict access to physical therapist care.
As the Board has acknowledged, physical therapy has been proven to return injured workers to health very often at far lower costs than other medical interventions, including, and especially, the utilization of Schedule II opioid medications (see attachment A [slides 8, 9, 10 of February 8, 2018 presentation to the comp board]). Therefore, an unintended effect of retaining the cap would be the continued over reliance on higher cost care, including the use of Schedule II drugs (see Attachment B [slide 11]), fueling both preventable cost increases and the deleterious impact of the State's opioid epidemic. Currently, the NYS workers’ compensation system spends more than $62 million on Schedule II drugs, representing 30% of all drug costs to the system. Conversely, the states of Washington and Colorado have been actively incentivizing PT services as an alternative to Schedule II drugs. Consequently, both states spend far less on Schedule II drugs and both states have far lower overall opioid-related death rates. We believe New York would experience a similar significant drug cost reduction if PT service were incentivized, and further, we believe that the reduced utilization of opioids will save lives.

The retention of an RVU cap at the current level would undermine the general imperative for lower cost health care services, setting itself against the tide of federal and state initiatives designed to curb health care costs that have been championed by the Administration. In addition, the cap retention would incentivize reduced treatment intensity, adversely impacting patient recovery.

Second, workers’ comp rates for PT have not increased since 1996. Ever with the proposed increases, PT services will still be paid at 23% less than they were in 1996, when adjusted for inflation. Meanwhile, over the same period of time, the physical therapy profession’s entry-level education has advanced from a Bachelor’s degree to the Doctor of Physical Therapy degree. Today’s therapists are increasingly skilled in evidence-based treatment and effective management of the injured worker.

It should also be noted that PT providers were left out of the 30% MFS increase for providers billing E&M codes that was established in 2010. Additionally, the rate differential between hospital/physician based care and independent provider care only exacerbates a structural reimbursement inequity. We see no reason to differentiate payment for physical therapy services based on the site of care. This payment practice is antiquated and largely limited to the New York workers’ compensation system.

Lastly, even when including the Board’s proposed rate increases, reimbursement for PT services would remain significantly lower than Medicare rates, and would remain the lowest in the nation to our knowledge, and certainly far lower than comparable states such as Texas, Pennsylvania, Florida and California.

It is for these reasons that we respectfully request the Board’s proposal be modified to replace the proposed retention of the current 8 RVU cap with a 16 RVU cap, if necessary, phased in over a 3 to 5 year period. Upon your request, we would be very happy to provide you with additional information and analysis concerning our proposal.
On behalf of the entire NYPTA membership, thank you again for your demonstrated willingness to listen to and thoughtfully regard the invaluable perspective of New York State’s physical therapy providers. We strive to be a productive partner in establishing forward thinking health policy that is founded on evidenced-based care that returns injured workers to health as quickly and efficiently as possible.

Sincerely,

PEGGY LYNAM, PT, DPT
NYPTA President

Attachment
cc: Mary Beth Woods, WCB Executive Director
    NYPTA WC Work Group
Benefits of Early, Adherent Physical Therapy

Cost, Timeliness & Opioid Risk Reduction in PT literature

Per NYCIRB State of the System Report the low back area by claim count is 14% of claims and results in total cost to the system of 17.1% [4]

- Per a study by Childs et al in 2015;
  - "Early referral to guideline adherent care physical therapy was associated with significantly lower utilization for all outcomes and 60% lower total low back pain related costs." and;
  - Early referral to guideline adherent care was associated with lower utilization of advanced imaging, lumbar spine injections, lumbar spine surgery & use of opioids." [5]
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Cost, Timeliness & Opioid Risk Reduction in PT Literature (Cont’d)

Per a study by Thackeray et al in 2017 concluded “Among Medicaid recipients with new-onset LBP, the index provider’s prescription imaging decisions and patient demographics were associated with PT referrals and participation. A referral to PT and subsequent PT participation was associated with reduced opioid prescriptions during follow-up.” [6]

Per a study by Fritz et al in 2012 “Early physical therapy timing was associated with decreased risk of advanced imaging, additional physician visits, injections and opioid medications compared with delayed physical therapy. Total medical costs for LBP were $2,736.23 lower for patients receiving early physical therapy.” [7]
Benefits of Early, Adherent Physical Therapy

Cost, Timeliness & Opioid Risk Reduction (Cont'd)

- Per a study by Pendergast et al in 2012 demonstrated that Medicare beneficiaries who received a course of 8 weeks of physical therapy incurred between 14% and 32% lower average Medicare A/B spending in the year following diagnosis than did beneficiaries with on therapy visit. [8]

- Per a study by Frogner et al in 2016 “The findings from this study suggest that seeing a physical therapist as the first point of care compared to seeing a physical therapist at a later point in time (or not seeing a PT) reduces utilization of potentially costly services. Of particular interest was the significant decrease in opioid prescription, ED visits, and imaging for those patients receiving PT first. The potential reduction in opioid prescriptions is notable given the increasing awareness on the over-prescription of opioids and the high risk of substance abuse. These findings suggest that having access to PT could have an impact on health care costs including out-of-pocket costs across all settings. [9]
Benefits of Early, Adherent Physical Therapy

Background & Vital Statistics

- CDC report in March 2017 that with a 10 day supply of opioids the odds of utilizing them 1 year later is ~20%. \[10\]
- Olfsen et al. Just over 60% of deaths from overdose had been diagnosed with a chronic pain condition. \[11\]
- WCRI data indicates strides have been made in NY program since institution of reforms but several key indicators including morphine equivalent amount (MEA) and the number long-term users remain above the median for those with loss time claims >7 days. \[12\]
- CDC recommendations state “Nonpharmacologic therapy are preferred for chronic pain. Nonopioid pharmacologic therapy should be used when benefits outweigh risks and should be combined with nonpharmacologic therapy to reduce pain and improve function. If opioids are used, they should be combined with nonpharmacologic therapy and nonopioid pharmacologic therapy, as appropriate, to provide greater benefits to patients in improving pain and function.” \[13\]
- Per NYCIRB 2017 State of the System report, regarding prescription drug spending “Opioids are the largest category of prescription drug spending.” \[14\]
- Per NYCIRB Medical Payment Study of payment distribution notes physical therapist (by provider type) is <5%/year of medical expenditures from service year 2011-2016. \[4\]