

March 25, 2019

The Honorable Robert Wilkie  
Secretary  
Department of Veterans Affairs  
Attn: RIN-2900-AQ46  
810 Vermont Avenue, NW  
Washington, DC 20420

**Re: Veterans Community Care Program [RIN- 2900-AQ46]**

Dear Secretary Wilkie:

On behalf of our more than 100,000 member physical therapists, physical therapist assistants (PTAs), and students of physical therapy, the American Physical Therapy Association (APTA) respectfully submits comments to the Department of Veterans Affairs (VA) in response to the Veterans Community Care Program proposed rule. The mission of APTA is to further the profession's role in the prevention, diagnosis, and treatment of movement dysfunctions and the enhancement of the physical health and functional abilities of members of the public. Physical therapists play a unique role in society in prevention, wellness, fitness, health promotion, and management of disease and disability by serving as a dynamic bridge between health and health services delivery for individuals across the age span. While physical therapists are experts in rehabilitation and habilitation, they also have the expertise and the opportunity to help individuals improve overall health and prevent the need for avoidable health care services. Physical therapists' roles may include education, direct intervention, research, advocacy, and collaborative consultation. These roles are essential to the profession's vision of transforming society by optimizing movement to improve the human experience.

As the largest integrated health system in the country, the Veterans Health Administration (VHA) has made significant strides toward providing cutting-edge, reliable care, including through the increased use of telehealth to deliver services. Approximately 3,500 physical therapists and PTAs are employed by VHA. These physical therapy professionals deliver evidence-based, high-quality care and are trained to address the various complexities facing the veteran population.

APTA appreciates the opportunity to provide comment to VA in response to its proposed rule. Please find our detailed comments below.

### **Overview**

The Veterans Community Care Program will permit eligible veterans to elect to receive hospital care, medical services, and extended care services from eligible entities and providers. This program will replace the Veterans Choice Program and will be VA's exclusive authority that determines eligibility under which covered veterans would receive community care through eligible entities or providers. However, we encourage VA to continue to seek to improve access to the care offered by VHA as well as recognize the exceptional care already delivered by VA providers to our nation's veterans when crafting the rules for the new community care program.

To that end, as VA undertakes implementation of the Mission Act of 2018, given the significant volume of need in the community for physical therapy services for the treatment of a multitude of conditions, APTA recommends that VA consider how it may incentivize more community-based physical therapists and PTAs to partner with VA in the future. It is critical that veterans seeking care from community providers can successfully access comprehensive, high-quality health care services, including physical therapy, in a timely manner. We also recommend that each Veterans Integrated Service Network (VISN) include a physical therapist on the leadership team who can offer guidance and expertise on the provision of therapy services in the community, as this will help to ensure that veterans receive the right care at the right time in the right setting.

### **§ 17.4010, Veteran eligibility**

Section 1703(d) establishes the conditions under which VA must furnish care in the community through eligible entities and providers. VA has proposed 6 conditions under which a veteran would become eligible for the Community Care Program: (1) VA does not offer the care or services the veteran requires; (2) VA does not operate a full-service medical facility in the state in which the veteran resides; (3) The veteran was eligible to receive care under the Veterans Choice Program and is eligible to receive care under certain grandfathering provisions; (4) VA is not able to furnish care or services to a veteran in a manner that complies with VA's designated access standards; (5) The veteran and the veteran's referring clinician determine it is in the best medical interest of the veteran to receive care or services from an eligible entity or provider based on consideration of certain criteria that VA would establish; or (6) the veteran is seeking services from a VA medical service line that VA has determined is not providing care that complies with VA's standards for quality. APTA is generally supportive of the proposed conditions for eligibility.

### *Access Standards*

One condition under which a veteran may seek care in the community is when VA is not able to furnish care or services to a veteran in a manner that complies with VA's designated access standards. The proposed standards indicate that a veteran will be eligible for community care if a primary care visit cannot be scheduled within 20 days and 30 minutes average driving time. The standard for specialty services is 28 days and 60 minutes driving time. While APTA generally supports the standards, we seek clarification as to how VA will differentiate between primary and specialty care. We strongly encourage VA to consider physical therapy a primary care

service for the purposes of determining access. The very nature of physical therapy services most often requires patients to complete multiple visits a week for an extended period of time. In this way, physical therapy is more akin to mental health care, which is appropriately subject to the primary care access standards. Furthermore, physical therapy is often prescribed to treat conditions of physical debilitation or musculoskeletal-related pain, often which are exacerbated with prolonged sitting or driving. For these reasons, a 60-minute drive time standard is inappropriate, and veterans would be better served by receiving physical therapy services subject to the primary care access standards.

In addition, classification of physical therapy as a primary care service is not unprecedented: the US Army has used physical therapists as primary care providers for neuromusculoskeletal conditions since 1971. In military medicine, primary health care teams can include physicians, nurse practitioners, physician assistants, physical therapists, behavioral health care providers, and others, helping to ensure patients get the right care at the right time. Incorporating physical therapists into primary care models have led to improvements in quality of care and cost containment.<sup>1</sup>

Physical therapists provide a broad range of services to optimize movement, including screening, examination, evaluation, diagnosis, prognosis, intervention, coordination of care, prevention, wellness and fitness, and, when indicated, referral to other providers. Appropriate and timely access to physical therapy services reduces medical complications, clinical interventions, hospitalizations, institutionalizations, caregiver assistance, and other health care costs. Therefore, given the 3,500 physical therapists and PTAs employed by VHA and the significant number who participate in VHA's community care programs, we encourage VHA to identify how it may utilize physical therapists as primary care professionals or as members of primary care teams to minimize barriers to veterans' access to care.

### *Quality*

Another condition under which a veteran would be eligible for community care is when the veteran is seeking care or services from a VA medical service line that VA has determined is not providing care that complies with VA's standards for quality. The assessment will be based on (1) whether VA has identified the medical service line as underperforming in accordance with timeliness standards when compared with the same VA medical service lines at other VA facilities and (2) two or more distinct and appropriate quality measures of VA's standards for quality when compared with non-VA medical service lines.

Currently, public and private sector providers have a variety of options for monitoring quality. APTA recommends that VA utilize existing standards rather than expending resources to develop standards from scratch. There are various options available, including the National Committee for Quality Assurance's Healthcare Effectiveness Data and Information Set (HEDIS). HEDIS includes more than 90 measures across 6 domains including effectiveness, access/availability, experience of care, and risk-adjusted utilization. VA should also look to the Centers for Medicare and Medicaid Services (CMS), which has been developing quality measures through its various quality reporting programs, including the Quality Payment

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<sup>1</sup> Murphy B, Greathouse D, Masui I. Primary care physical therapy practice models. *JOSPT*. <https://www.jospt.org/doi/pdf/10.2519/jospt.2005.35.11.699>. Accessed March 20, 2019.

Program's Merit-based Incentive Payment System (MIPS). Utilizing the standards already developed by CMS for Medicare practitioners will be especially beneficial for VA, allowing veterans to accurately compare providers both within the VA system and outside of it through the use of the same quality standards.

Additionally, APTA recommends that once VA has collected quality assessment data, it share this data with veterans to better enable them to make health care decisions based upon their individual needs, goals, and desires. Given that VA is expending resources to establish standards and make determinations based on such, this data should be collected and utilized to the fullest extent possible. As has already been done with Medicare, we recommend VA establish a dataset for veterans to compare facilities, group practices, and individual clinicians, both within the VA system as well as in comparison to those providers in the community. It is imperative that comparative tools include both VA and community providers so veterans may make an informed decision as to whether they want to seek care outside of VA. Such provider datasets could include demographic information, measure performance rates, and utilization. In some cases a veteran may be willing to wait longer for an appointment with a more qualified or experienced provider; in other cases, time of appointment or distance traveled is the primary factor affecting the veteran's decision. Veterans should have access to information that aids their medical decision-making, as it is the veterans who ultimately should be in control of choosing where, when, and how they receive health care services.

For instance, Qualified Clinical Data Registries (QCDR), including the [Physical Therapy Outcomes Registry](#) administered by APTA, track outcome measures that can be used to assess the value of a provider's services. Furthermore, if enough data is collected, predictions can be made about the course of care for specific conditions. This would allow veterans to better understand the anticipated course of treatment before it begins, including the expected time commitment and likely outcome, among other factors that affect their health care decisions. VA could utilize these existing tools or develop their own in order to put this information in the hands of veterans.

#### **§ 17.4030, Eligible entities and providers**

Eligible entities and providers under the Veterans Community Care Program would be substantively identical to those expressly identified as eligible to participate in the Veterans Choice Program: (1) the entity or provider must have entered into a contract, agreement, or other arrangement to furnish care and services under the Veterans Community Care Program; (2) the entity or provider must not be a part of, or an employee of, VA; and (3) the entity or provider must be accessible to the covered veteran.

APTA supports these requirements but encourages VA to update its qualification standards for VA providers. For instance, VA's qualification standard for PTAs has not been updated since 1996.<sup>2</sup> Since then, there have been significant revisions to the PTA education and licensure process. APTA recommends that VA modify the PTA qualification standard, including but not limited to correcting the title from *Physical Therapy Assistant* to *Physical Therapist Assistant*; clarifying licensure requirements for graduate PTAs, recognizing the licensure/certification

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<sup>2</sup> VA Handbook 5005 Part II Appendix F21. Qualification Standard.

requirement for practice in all 50 states, including District of Columbia, Puerto Rico, and the US Virgin Islands; and changing the full performance grade level to GS-10.

Similarly, VA should standardize the scope of practice for physical therapists and PTAs. VA permits physical therapists and PTAs to practice in any location, provided they hold a license from any state. Because each state has proffered varying physical therapy practice acts, many VA-employed physical therapists and PTAs are licensed and regulated, respectively, in a state that has a practice act that conflicts with the state's practice act where these professionals are physically located. To date, VA has not adopted a national physical therapy scope of practice. Accordingly, physical therapists and PTAs employed by VA have concerns regarding potential licensing conflicts and have sought definitive, clear counseling to guide their practice of physical therapy. However, previous guidance issued by the VA Office of General Counsel has been varied and limited in detail. Therefore, APTA strongly recommends that VA amend its provider regulations to permit physical therapists and PTAs to practice to the full extent of their education, training, licensure, and certification, regardless of state restrictions that limit such full practice authority. We recognize that adopting a national directive will take time. Accordingly, in the interim, APTA recommends that VA issue formal guidance that clarifies the state practice act these federal employees should follow when practicing in a state that differs from the state in which they are licensed. Without clarification issued by VA, fears of retaliation of license will persist, resulting in diminished access to care for veterans and an increase in community referrals.

### **Conclusion**

APTA thanks VA for the opportunity to provide feedback in response to the Veterans Community Care Program proposed rule. We look forward to serving as a resource to VA as it continues to implement the VA Mission Act of 2018. Should you have any questions regarding our comments, please contact Kara Gainer, director of regulatory affairs, at [karagainer@apta.org](mailto:karagainer@apta.org) or 703/706-8547, or Kate W. Gilliard, senior regulatory affairs specialist, at [kategilliard@apta.org](mailto:kategilliard@apta.org) or 703/706-8549. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Sharon L. Dunn". The signature is written in a cursive, flowing style.

Sharon L. Dunn, PT, PhD  
Board-Certified Orthopaedic Clinical Specialist  
President

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