Support H.R. 8746, the "Access to Inpatient Rehabilitation Therapy Act of 2022"

Background: The Centers for Medicare and Medicaid Services (CMS) uses an intensity of therapy requirement to determine, in part, which Medicare beneficiaries qualify for treatment in an inpatient rehabilitation facility (IRF). The "three-hour rule" requires the patient to participate in, and benefit from, at least three hours of rehabilitation therapy per day, five days per week (or 15 hours per week if documented appropriately). Prior to 2010, CMS regulations for IRFs explicitly recognized ***physical therapy***, ***occupational therapy***, ***speech therapy***, and/or ***orthotics and prosthetics*** as countable toward the three-hour rule but allowed the physician and rehabilitation team to prescribe the appropriate mix of "other therapeutic modalities" in addition to the skilled services listed in the regulation.

In 2010, CMS revised the IRF regulations and limited the three-hour rule to only the four previously listed modalities, removing the physician's discretion to count additional therapeutic services toward satisfaction of the rule. Other skilled therapies, such as recreational therapy and respiratory therapy, are no longer counted. Although IRFs are permitted to provide these services, the fact that they cannot be counted toward the rule has limited their availability in many rehabilitation hospitals – even though many patients may need and would benefit from these services.

During the COVID-19 public health emergency, the three-hour rule was waived in its entirety. Despite this broad flexibility, nationwide IRF data demonstrates that admissions did not increase, and the average amount of therapy provided to patients remained steady. The blanket waiver of the rule has **not** resulted in negative impacts on care, but has allowed IRF patients to receive a broader, more appropriate mix of therapies to treat their conditions.

H.R. 8746: The bipartisan ***Access to Inpatient Rehabilitation Therapy Act***, introduced by Reps. Joe Courtney (D-CT), Glenn "GT" Thompson (R-PA), and G.K. Butterfield (D-NC), focuses on restoring physician judgment when determining which services are counted toward the three-hour rule. The new language maintains the explicit focus on physical therapy, occupational therapy, speech language pathology, and orthotics and prosthetics services ***at the time of admission***, while adding flexibility for the physician and the rehabilitation team to determine the appropriate mix of skilled services to best suit an individual patient after their admission, providing a more patient-centered, intensive treatment plan. This change in the law would help facilitate access to the appropriate mix of services in the IRF setting and would benefit people with brain injuries, spinal cord injuries, those who have sustained strokes and amputations, individuals living with neurological disorders, and a wide range of other conditions, including patients recovering from COVID-19 who are often in need of respiratory therapy.

> "The Secretary shall provide that an intensive rehabilitation therapy program… may, after such admission, be modified by the rehabilitation physician treating such individual to include ***other skilled therapeutic modalities, including recreational therapy, respiratory therapy, and other skilled services specified by the Secretary.***"

Support: The bill has already received support from a diverse group of organizations, including the American Academy of Physical Medicine & Rehabilitation, the American Medical Rehabilitation Providers Association, the American Therapeutic Recreation Association, the Association of Rehabilitative Nurses, the Brain Injury Association of America, the Center for Medicare Advocacy, the Christopher and Dana Reeve Foundation, the National Association of State Head Injury Administrators, and United Spinal Association.

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