

**August 2003**
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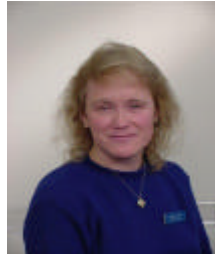
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**The President's Column**

 Susan C. Abis, PT  
 President, NHAPTA

***The Storm isn't over...  
 It's coming...***

I awoke the other morning to hear my husband say "Some storm last night, wasn't it?" Surprised that I didn't hear any thunder, lightning or wind, I looked outside to see branches on the lawn, scattered leaves, and puddles in the driveway and street. I had slept through it. Moreover, so had my children. He asked again "You didn't hear anything? I guess you were too sound asleep." I agreed- I must have been too tired to notice. I'm sure many of you have had similar experiences- totally missing the fury and might of a summer storm, or perhaps even waking up to watch and staring at your family members in wonderment that they could miss something like this. I know my dog will run and hide in the basement at the mere thought of thunder and lightning. How about you? Do you get frightened too?

I had the privilege of participating last week in the Medicare Direct Access March for physical therapists- to support the Medicare Patient Access to Physical Therapists Act- HR 792 (or senate version S 493). Nearly 2000 physical therapists from around the country "stormed" Capitol Hill on June 19, 2003 to lobby their members of Congress for the right of Direct access to physical therapy for the Medicare beneficiary. Nine of these therapists, I'm proud to say, were from New Hampshire. In addition to the direct access bill,

the repeal of the \$1500 cap on Medicare Part B services was addressed (HR 1125, S 569- titled Medicare Access to Rehabilitation Services Act). Following a rally in the upper Senate Park below the Capitol (in 90 degree heat with extreme humidity), therapists met with members of the House and Senate. Everywhere you went, you could see someone with a PT 2003 badge or pin on! It truly was a PT "storm" of the highest magnitude! The energy and enthusiasm which "blew" across our nation's capitol on June 19, 2003 is not something I'll soon forget watching.

Since the Direct access march, APTA has realized an additional 24 sponsors to HR 1125 with a total of 204 co-sponsors for repeal of the cap, while the senate bill saw one additional co-sponsor, with a total of 41 now. The Direct access bill netted an additional 22 co-sponsors for a total of 103, while the senate bill brought an additional co-sponsor for a total of 11. The House Energy and Commerce Committee has brought forth an initial draft of their bill, which, unfortunately, will call for an additional year's moratorium- while the senate bill does not currently address the Medicare cap at all. It is hoped that the final version of the senate bill will address this- perhaps with repeal, but at least a moratorium as the house did. Please congratulate our own freshman Congressman Jeb Bradley for his own co-sponsorship of both the cap bill as well as the direct access legislation.

Enough of the fun, "exciting" storms - what about the "scary" storm? Anthem BC/BS met with members of APTA's reimbursement committee as well as members of the Allied Health PT providers in late May. A "storm" was brewing with a new fee schedule which Anthem had set. It appeared that a new fee schedule was in the works to take effect on 7/1/2003. While Anthem providers (excluding federal plans) have not seen any increase in provider rates since 1996, Anthem has chosen to move toward a RBRVS system (similar to Medicare's). With this new fee schedule, the projected average changes appeared to be in the range of an 11% drop in fees (although Anthem insisted that their analysis indicated a 2.8% increase)- placing the

*Continued on Page 4*


President Ben Massey addresses a crowd of nearly 2,000 PT/PTA &amp; students in front of the capitol prior to the direct access march.



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**NEWSLETTER**

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For more information, contact the Publisher

**SCHEDULE**

February	Legislative Bulletin / Calendar of Events
April	Nominations Call / Caucus Reminder / Academic Update Benefits of Membership (Circulation: All PT/PTAs in NH)
August	Reports: Caucus / National / HOD / Legislative
December	Election Results / Annual Meeting Report

**Are You Hip to HIPAA?**

Carla Bickford, PT

Do you know the answers to the following questions?

1. Can health care providers engage in confidential conversations with other providers or with patients, even if there is possibility that they could be overheard?
2. May messages be left for patients at home either on an answering machine or with a family member to remind the patient of an appointment?
3. May patient sign-in sheets be used and can staff call out full names of patients in a waiting room?
4. Do health care providers need the patient's written authorization to consult with another health care provider regarding the patient's treatment?

Answers:

1. **Yes, if reasonable precautions are taken to minimize the chance of incidental disclosures to others who may be nearby.** For example staff can orally coordinate services at a work station. However, if treating in an area such as a gym where several patients are present, detailed discussions of treatment and prognosis should take place in a more private area.
2. Yes, if reasonable safe guards are taken such as limiting full amount of information disclosed , e.g. leave only the name to confirm the appointment or request that the patient call back. The **exception** to this is a patient who requests not to be contacted at home and gives an alternative location such as a work phone. If the health care provider agrees to this and then contacts the home phone, this is a HIPAA violation.
3. Yes, the HIPAA Privacy Rule explicitly permits the incidental disclosures that may result from this practice. However, these incidental disclosures are permitted only when we have implemented reasonable safeguards and the **"minimum necessary standard"** has been applied. For example, the sign-in sheet may not display medical information that is not necessary for the purpose of signing-in such as the patient's diagnosis.
4. No, consulting with another health care provider about a patient falls within the HIPAA Privacy Rule's definition of treatment. Remember that the HIPAA Privacy Rule permits use of protected health information for purposes of **treatment, payment and healthcare operations.**



# Summary of Federal Affairs

Marc M. Lacroix, PT, MBA, NHA

APTA is having a busy legislative season with issues dealing with therapist in every setting. The largest issue is the \$1590 cap now scheduled to go into effect July 1, 2003. I will outline the legislation and efforts being made on behalf of all physical therapist and physical therapist assistants. If you want more information, you can access the national APTA.org web site under advocacy or email me. Susan Abis and I lobbied the 2 senators and 2 representatives from NH re: the cap and direct access. Now is the time to bombard them as they will be making up their mind re: co-sponsorship in the next 2 weeks. Let's keep emailing and calling them until they tell us to "call off the dogs" they will cosponsor.

## \$1590 CAP

S.569/HR1125 are the bill numbers which repeal the cap. The cap ceiling has been raised due to an inflation factor to \$1590. The cap still applies to PT and SLP combined with a separate \$1590 to OT. APTA has a Senate and House bill to repeal the cap. It is understood this bill will not be heard along but in conjunction with a larger Medicare bill dealing with reform and Drugs. Thus far there are 86 cosponsors in the house and 20 in the Senate. If we can increase the number of cosponsors, we have a better chance of the issue being addressed in the reform package. There is an estimate the nationally 13% of all Medicare patients would exceed the cap. The savings from repeal are scored (estimated) at \$6.3b. This is thought to be high as in 2002 all of therapy billed only \$2b. It seems ludicrous to think that 6.3B would be saved over 10 years if without a cap there would be at 2002 dollars only \$20b spent.

## DIRECT ACCESS

S.493/HR792 are the bill numbers allowing for direct access. This is for Medicare patients to be able to see therapists without MD referral and also eliminates the need to recertifications. It also defines what a qualified PT is. There are currently 51 cosponsors in the house and 5 in the senate. This bill separates us regulatory from SLP's and OT's. We have direct access for evaluation in 47 states and for eval and treatment in 37 states. The military does not need referral. In NH, we do not need MD referral and can get paid for BX and for workers comp. This is a state rights and a discrimination against our elderly issue. There is a chance is enough cosponsors are obtained for this to pass this year. More likely will be a change to the cert requirement. It is not clear but hints were given that the 30 day rule would change in some format, whether that involves the MD seeing the patient, (vs obtaining a cert without seeing the patient) or extending 30 days for a greater period was not clear. It will move closer to having therapist dictate what therapy care a patient needs.

## IDEA

Passed out of full subcommittee and vote is on Wed April 30. Should increase funding which has moved from 8% four years ago to 17-18% currently. State needs to make up difference at this point in time so this should provide state with relief of burden in education. The down side is the "qualified" personnel is weakened and we may need to guard against aids providing "PT" and having schools bill it out as "PT".

## FEE SCHEDULE

The CPT codes were scheduled to be cut by 4.6% in 2003. Everyone is familiar that new rates went into effect March 1 with a 1.6% increase overall and higher for therapy. This was due to Medicare accepting the increased practice expense as APTA was presenting. Fee schedule will drop 4.4% in 2004 unless a remedy in the formula is found. This will be a major AMA and physician community effort in 2003.

## REPAIR

The Rural Equity Payment Index Reform Act. This act takes away from the geographical indexing. Usually this lowers payment in rural areas and increased in urban. This act increased rural payments to the urban areas in a phased in manner.

## MEDICAID

Is a huge state issue as it is on average 17% of a states budget. As most of you know, Governor Benson proposed in his budget to eliminate state support of Medicaid payment to physical therapist as an unnecessary. Legislation is trying to increase the % paid for by the federal government. They want to increase flexibility to coverage and look at limits on some benefits.

## MALPRACTICE

Everyone wants this fixed. The current legislation has a cap of \$250K for non economy damages and cap of \$250K in Punitive damages. There is no limit on economic damages. It also calls for a speedy resolution (less than 3 years) and limits compensation to lawyers. It has stalled with a couple of the high profile cases of the past few months.

## STOP ACT

Stroke Act. This authorizes \$200m for prevention and treatment of stroke. Stroke is the number 3 killer in the USA but gets very little money. Senate passed unanimously but the house thought it was too big. Allocation of \$ was \$100m for grants on prevention and treatment, \$50m for advertising on prevention, \$10m for health professional education and \$10m for research on best practices.

Other issues are being discussed and worked on but are more regulatory the legislative. This includes group therapy, prosthetics/orthotics and who is a qualified practitioner, E-stim in wound care, new CPT codes

## PT PAC

A report from the PT PAC, a necessary tool in today's political environment, including the following highlights.

92% of candidates supported by the PAC won. \$1.2m raised during the last election cycle. This was the 3<sup>rd</sup> highest among non physicians and more than twice of chiropractors. It was also more than the orthopedic surgeons and the Osteopaths. The average contribution of those who contributed was \$90.72. This included 16.8% of all APTA members. The more support, the better the outcomes for our profession

**Registration Form**

(duplicate as needed)

Designation :  
PT, PTA, etc

Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Tel. No. \_\_\_\_\_

E-mail \_\_\_\_\_

Lic. No. & State \_\_\_\_\_

APTA No. \_\_\_\_\_

? September 11—Animal PT

? October 16—Gait Training

**Cost:**

**APTA member**

**non-APTA**

\$25.00 per lecture

\$40.00 per lecture

Student (with ID) \$12.00

It being understood that a student has not attained an entry level physical therapy degree.

**Cost is \$5.00 more at the door.**

**Refund Policy:**

No refunds, however a substitute will be welcome if NH APTA is notified 36 hours in advance—which is the deadline for telephone reservations.

**Make checks payable to NH Chapter APTA**

Send registrations to:

**NH Chapter APTA**

PO Box 978

Manchester NH 03105

603/627-7970

**Crotched Mountain Celebrates 50 Years!**

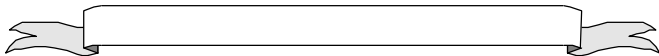
Since 1953, Crotched Mountain has been dedicated to serving individuals with disabilities and helping them live as independently as possible. This year marks the 50<sup>th</sup> Anniversary of Crotched Mountain Rehabilitation Center. To celebrate this milestone, several events are being planned throughout the year. It is Crotched Mountain's hope that these events will provide opportunities to reunite former students and clients, and to recognize old friends of Crotched Mountain. The events planned include:

Late August – Student Art Show and 50<sup>th</sup> Anniversary Viewing of the Elizabeth Orton Jones and Nora Unwin Murals.

Sunday, September 14 – Crotched Mountain Brain Injury Center Walkathon/5k Race, and Reunion Picnic.

Saturday, October 11 – Homecoming Reunion for Crotched Mountain School of Special Education students.

All of these events will be held at the Crotched Mountain main campus in Greenfield, NH. If you are a former student or Crotched Mountain client or would like more information about these events, please call Tracy Messer at 603-547-3311, extension 480.



**Only 25 students. . .**

will have the opportunity to jump in the pool at Marsh Brook on September 20, 2003 and undergo an introduction to the Burdenko Method: an integrated approach to rehabilitation and conditioning.

Will you be one of them?  
Call the office for a brochure.



<GENESIS 1/4 AD>



## Chief Delegate Article

Marc M. Lacroix, PT, MBA, NHA

The 2003 version of the House of Delegates had its usual share of turns and twist. One of the most exciting occurred at the small state caucus when 47 delegates attended a meeting. The New Hampshire Delegation facilitated the meeting and took a leadership role in the house for the first time in memory. Stacy Thrall, the representative to the National Assembly (PTA) also took a leadership role and came away with an appointment on a committee to develop formal recognition pathways for the physical therapist assistants.

Many issues were discussed at the HOD which were pertinent. These are outlined in the national literature and on the APTA website so I will not take time to restate them here. I wanted to discuss the common theme in this years house which is the autonomy of the physical therapist. What is autonomy and is there a difference between clinical autonomy and professional autonomy ?

Many of us would say that if a therapist is able to achieve direct access, receive payment for these patients, develop a patient management strategy without direction then autonomy has occurred. While this may be true for clinical autonomy, is it also true for professional autonomy. It is documented for professional autonomy to occur, financial independence must also be present. We can not have those who refer to us profit from our referrals. If a family practice MD profited every time he referred someone to a specialist such as an orthopedic surgeon and also profited every time the orthopedic surgeon saw someone who was not referred by the family practice MD would the orthopedic surgeon be considered an autonomous practitioner?

I want to make clear, a situation where an MD owns a physical therapy service is legal under state law and is ethical under the Code of Ethics of the APTA. The issue is one of autonomy. There was a resolution in the house which passed unanimously re: physician ownership of physical therapy service which outlined the reasons as to why the Physical Therapy Profession would be one step closer to an autonomous profession if POPS did not exist. I have included for all to review and consider.

*Whereas*, Financial relationships and incentives between a patient's/client's physician and physical therapist represent an avoidable conflict of interest, reduce consumer choice, and diminish professional autonomy; *Whereas*, There is evidence that such avoidable conflicts of interest affect delivery of care, utilization of services, and aggregate cost of treatment, and that patients/clients and payers would benefit from the elimination of such conflicts;

*Whereas*, In recent years, ownership of physical therapy services has been marketed to physicians as a means to recover revenues lost as a result of managed care, which has led to an accelerating trend of physician ownership of physical therapy services and referral of patients/clients to these services;

*Whereas*, The American Physical Therapy Association (APTA) opposes physical therapy services provided in practice settings in which the physician profits as a results of the referral;

*Whereas*, Numerous professions have successfully regulated ownership of their professional services through state legislative provisions; and

*Whereas*, The APTA, through its Goals and Objectives and other documents, has identified and implemented comprehensive legislative strategies to ensure the public's right to direct access to physical therapy;

*Resolved*, That the American Physical Therapy Association support the development of strategies to secure enactment of federal and state laws and regulations that prohibit physician ownership of physical therapy services.

## American Physical Therapy Association News Release

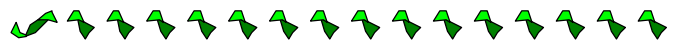
ALEXANDRIA, VA, July 22, 2003 --- The American Board of Physical Therapy Specialties (ABPTS) of the American Physical Therapy Association (APTA) has awarded specialist certification 560 physical therapists this year. Those who were recognized recently completed the requirements to become board-certified specialists in one or more of the following specialty areas: Cardiovascular and Pulmonary, Clinical Electrophysiology, Geriatrics, Neurology, Orthopaedics, Pediatrics and Sports Physical Therapy.

Dr. Phillip Bashook, EdD, keynote speaker at the 2003 Ceremony for Recognition of Clinical Specialists, stated "...Patients expect their health care providers to be experts. Certification is one essential proof of expertise. Physical therapists must maintain certification throughout their careers, demonstrating their expertise and expecting to be judged against higher standards..."

To obtain board certification, candidates must submit evidence of required clinical practice in a specialty area. In addition, candidates must successfully complete a rigorous written examination, demonstrating specialized knowledge and advanced clinical proficiency a specialty area of physical therapist practice.

Of the more than 4,000 board-certified physical therapists in the U.S., approximately 75 are certified in more than one specialty area

The American Physical Therapy Association (APTA) is a national professional organization representing 63,000 members. Its goal is to foster advancements in physical therapy practice, research and education.



ABPTS has announced the names of four NH physical therapists who have earned the distinction of Certified Clinical Specialist.

They are: Andrew Cannon, PT, SCS  
William Dooley, PT OCS  
Deirdre Muller, PT OCS and  
Kimberly Nadeau, PT, GCS

If you know, or work with, these outstanding therapists, be sure to give them a congratulatory call.



## President's Column

Continued from page 1



President Susan Abis PT is recognized by national APTA President Ben Massey and Board of Directors Joanelle Bohment upon her retirement from her second term.

fee schedule even below that of Medicare recipients. With the careful negotiations of physical therapists (who stayed awake during the storm) from the reimbursement committee and Allied, these rates have been adjusted via changes in conversion factor so that evaluation codes (97001-97006) will receive a .5% increase (vs 4% decrease), therapeutic

procedures (97110-97140) all realize approximately a 10-12% increase, and procedure codes which require constant attendance (97032-97039, will see 20-30% increases). The overall projected increases across the network are now estimated by Anthem at 6-7%

Supervised procedure codes which do not require a PT in constant attendance will see larger drops, ranging from 13-57%. In addition, Anthem has imposed a 25 visit per episode of care combined PT/OT benefit, effective October 1, 2003 (Speech therapy has its own 25 visit rule)- as well as a yearly cap of \$3000 on outpatient rehab services (combined PT/OT/ST). In addition to these new rules, Anthem has agreed to our concerns of a growth of physician ownership of PT services throughout this state over the past years- and is actively working on ways to address delivery of these services and billing as "physical therapy" by non-therapists.

Members of New Hampshire APTA also "stormed" the New Hampshire Medical Society this April to address issues of physician ownership. New Hampshire law mandates that physicians who own an interest in a referral entity must fully disclose this to the patient at the time of the referral with correct language. Further, many therapists seem unaware that our new practice act mandates that they (as well as their employee therapists) disclose this ownership interest to the patient in writing. Many physicians have part ownership in physical therapy centers across our state, yet do not fully disclose this interest to the patient in writing on their prescriptions. Some do not disclose at all. I am unaware of therapists who are not disclosing at this time. Both of these issues have been noted by the Board of Allied Health. The medical society has noted our concerns- yet feels that "disclosure" as it is quite sufficient at this time.

What about locally? Our own New Hampshire APTA staff has been very active. Medicaid funding currently for physical therapy is classified as an "optional" service, meaning that funding comes for our services at the state level. In the governor's, as well as the House plans here in New Hampshire (HB1), this was eliminated as an option for our patients. Physical Therapists across our state sent their message loud and clear to the Senate Finance Committee regarding how important this funding is for the future and independence of our patients (Face it- that's what it's about here, our patients. Who's getting rich on Medicaid patients these days anyway?). Funding has been restored in the Senate version of the budget. We'll all

have to wait and see what happens between the Governor and the legislature. Kudos to all therapists who "stormed" their legislator! (I even heard our lobbyist was told by the finance chairman to "have your people back off").

Our nominating committee may be contacting some of you soon. **WE NEED YOU!** Never before has participation in our chapter been so crucial! There is a positive, electric, lightning-like charge in the air- but we can't continue to create "storms" to help our profession and our patients without a supply of "energy". I hope you will consider adding your name to our slate of candidates this fall. Positions exist for nominating committee, board of directors (s), Vice President, and President. Time commitment is minimal- a few hours per month, and the rewards of helping your profession are boundless! Please, **DON'T SLEEP THROUGH THE STORM! WAKE UP! BE A PART OF YOUR PROFESSION!**



At the march on capitol hill, New Hampshire delegates stop at Congressman Bradley's office to thank him for his co-sponsorship of HR 1125 (repeal the \$1500 cap), and HR 792 (Medicare Direct access). from left to right are:

Susan Abis PT (President, NH chapter APTA), Kris Terrio PT, Janice Grenier PT, PCS, Beth W. Swanson PT. MS, OCS, TJ Karanasio PT, Steve Coppola PT, Congressman Jeb Bradley, Carla Bickford PT, Marc Lacroix PT, MBA, NHA (Chief Delegate, NH), Stacy Thrall PTA (RBNA Representative)

### Chapter Listserv Proves Valuable Resource

Messages of thanks have begun coming in from members as they discover a very useful source of information.

Reports from the Government Affairs and the Reimbursement committees are clear and easily understood, as well as appreciated.

If you have not subscribed, do so today at  
[www.nhapta.org](http://www.nhapta.org)

## NH APTA's Trip to Washington, D.C.

Marc M. Lacroix, PT, MBA, NHA

I have just returned from lobbying members of Congress from NH in Washington, DC. This year as part of the March on the Hill activities I was joined by several colleagues from NH. These included Chapter President, Susan Abis, Delegate Beth Swanson, RBNA Delegate, Stacy Thrall, NH APTA board Member Carla Bickford, APTA members TJ Karanosius, Steve Coppola, Kris Terrio and Janice Greenyer.

The high point of the hill visits were with the office of Representative Jeb Bradley who has co-sponsored our Direct Access under Medicare and the repeal of the \$1500 cap. We thanked Congressman Bradley and emphasized physical therapist through out the state were telling their patients of the support they had received from the Congressman.

We then lobbied with Senator Gregg, Senator Sununu (who has cosponsored repeal the cap legislation) and Representative Bass. The APTA members who lobbied were from a diverse clinical and practice background. Yet we all worked in harmony to appeal for the benefit of our patients. As I sit here and ponder, isn't that what the efforts of APTA are in the long run, to benefit the patients we serve. I heard various stories from these practices with the unifying theme of direct access and repeal of the cap is needed to insure appropriate care can be delivered to our elderly patients. It made me very proud to be a physical therapist. The enthusiasm and resolve of the group grew stronger as we encountered barriers in some offices to our goals. We spoke to one staffer with such enthusiasm, he will remember his visit with us all of his career on capitol hill.

The outcome of the fight for repeal of the cap will be decided for this year long before this article is printed in this newsletter. If the cap is not repealed, we pledge (some would say threaten) that we would return because it was the health and function of our elders, the sickest and most frail in our society whose entitlements we were there to defend and protect. We stated we hoped when we reached 65, someone would be there to protect our interest and our purpose on this day was to do the same. With the increasing demographic of the elderly, we need to be certain they receive the care they need to function at the level they choose and are able to achieve.

I also want to thank all those who participated at the rally on the hill but were not able to join us in the hill visits. Your participation showed congress the physical therapy community is one which will not be dismissed.

If this fight is to continue, I ask all of you to pick up the phone and call, fax, and email the offices. APTA will let you know when the time is right for this to occur. We need all of you, your patients, your parents, your grandparents, friends and neighbors to show support for our elderly. This is a fight we must win.



Clockwise from the top: Stacey Thrall PTA, Marc Lacroix PT, Susan Abis PT, Beth Swanson PT

## Advanced Aquatic Course (APTA Aquatic Section Endorsed)

Nationally recognized instructors will cover advanced aquatic topics to include:  
Water Safety certification, advanced Bad Ragaz & Watsu, Aquatic Biofeedback, aquatic NDT (adults) and S.I. (to name a few).

October 10 - 12, 2003  
20.5 C.E.U's

Course Host:  
HealthSouth Rehabilitation Hospital  
Concord, NH.

**Call: (770) 879-0677**  
For course information and registration.

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for all the good work the chapter accomplishes:

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SUPPORTER	\$100.—\$499.00
FRIEND	\$50.—\$99.00
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New Hampshire Chapter**

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December Newsletter Deadline  
November 1st

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