October 26, 2023

The Honorable Jason Smith
Chair, Ways & Means Committee
U.S. House of Representatives
1011 Longworth House Office Building
Washington, DC 20515

The Honorable Richard Neal
Ranking Member, Ways & Means Committee
U.S. House of Representatives
372 Cannon House Office Building
Washington, DC 20515

The Honorable Vern Buchanan
Chair, W&M Health Subcommittee
U.S. House of Representatives
2110 Rayburn House Office Building
Washington, DC 20515

The Honorable Lloyd Doggett
Ranking Member, W&M Health Subcommittee
U.S. House of Representatives
2307 Rayburn House Office Building
Washington, DC 20515

RE: Coalition to Preserve Rehabilitation Supports the *Access to Inpatient Rehabilitation Therapy Act of 2023*

Dear Chairmen Smith and Buchanan, and Ranking Members Neal and Doggett:

On behalf of the undersigned members of the Coalition to Preserve Rehabilitation (CPR), **we write to express our strong support for the *Access to Inpatient Rehabilitation Therapy Act of 2023,*** a bipartisan piece of legislation that would help restore physician judgment when determining which services are counted toward the so-called "three-hour rule," which helps define an intensive course of rehabilitation therapy in Inpatient Rehabilitation Hospitals and Units, commonly referred to as "IRF's". We urge your committee to work to advance this legislation in any moving legislative vehicle in the 118th Congress.

CPR is a coalition of national consumer, clinician, and membership organizations that advocate for policies to ensure access to rehabilitative care so that individuals with injuries, illnesses, disabilities, and chronic conditions may regain and/or maintain their maximum level of health and independent function. CPR is comprised of organizations that represent patients – as well as the providers who serve them – who are frequently inappropriately denied access to rehabilitative care in a variety of settings.

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 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-language pathology, 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 still permitted to provide these services for Medicare patients who need them, the fact that they cannot be counted toward the rule has limited their availability in many rehabilitation hospitals – even though many patients 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 did not result in negative impacts on care, but allowed IRF patients to receive a broader, more appropriate mix of therapies to treat their conditions.

The bipartisan ***Access to Inpatient Rehabilitation Therapy Act***, introduced by Reps. Glenn 'GT' Thompson (R-PA) and Joe Courtney (D-CT), 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 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 and during their IRF stay, providing a more patient-centered, intensive treatment plan.

For these reasons, we urge Congress to pass this bipartisan legislation soon in any moving vehicle to advance the provision of quality care for millions of IRF patients nationwide. 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.

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If you have any additional questions, please contact Peter Thomas and Michael Barnett, CPR coordinators, at Peter.Thomas@PowersLaw.com and Michael.Barnett@PowersLaw.com or by phone at 202-466-6550.

Sincerely,

The Undersigned Members of the Coalition to Preserve Rehabilitation

Allies for Independence
ALS Association
American Academy of Physical Medicine and Rehabilitation
American Association on Health and Disability
American Congress of Rehabilitation Medicine
American Medical Rehabilitation Providers Association
American Music Therapy Association
American Spinal Injury Association
American Therapeutic Recreation Association
Amputee Coalition
Association of Academic Physiatrists
Association of Rehabilitation Nurses
Association of University Centers on Disabilities
Brain Injury Association of America*
Center for Medicare Advocacy*
Christopher and Dana Reeve Foundation*
Commission on Accreditation of Rehabilitation Facilities (CARF)
Epilepsy Foundation
Falling Forward Foundation*
Lakeshore Foundation
National Association for the Advancement of Orthotics and Prosthetics
National Association of Rehabilitation Providers and Agencies
National Association of State Head Injury Administrators
National Association of Social Workers (NASW)
National Disability Rights Network (NDRN)
RESNA
Spina Bifida Association
United Cerebral Palsy
United Spinal Association*

**** CPR Steering Committee Member***

CC:

Representative Glenn 'GT' Thompson
Representative Joe Courtney