

CDC Report

Friday, January 18, 2002

Burbank, California

Legislative Report: Michael Arnold distributed a summary of legislative activity and presented the following legislative review:

The legislature is in its third extraordinary session at this time and is working on the \$12 billion deficit. Copies of legislative activity from this session will be purple and have “xxx” in the numbering system. The governor is trying to buy time until the primary elections in March as this is going to be a difficult budget year. The main focus of Michael Arnold’s office will be to protect our current position (especially with non-emergency Medi-Cal transportation).

The deadline for introduction of bills is February 22, so by early March, we should know what proposed legislation is coming.

- AB 1444 (enacted) A Registered Dietitian may write orders for laboratory tests (under the authority of a protocol authorized by a MD) within the scope of practice for a dietitian. Michael Arnold will report further on this legislation at the next meeting.
- Share of Cost. Since we are unable to carve out dialysis patients as a separate group, any benefit would apply to all Medi-Cal beneficiaries and be prohibitively expensive. The suggestion was made that the community participate in the CMS Open Door Session mentioned above.

Regulatory Report:

Michael Arnold introduced Esther Marie Carmichael, with Region IX CMS, and Melissa Reyes, with the State of California Department of Health Services. Michael delivered the following summary of LVN duties in dialysis facilities:

Three areas of activity for LVNs in dialysis have come into question. The first is assessment of patient status (also referred to as “data collection”), the second is administration of medications, and the third is initiation and termination of dialysis via a central line catheter. The Board of Vocational Nurses and Psychiatric Technicians (BVNPT) agrees with our assessment of what an LVN can do in the dialysis setting. The Board of Registered Nursing (BRN) has a contrary view and the Department of Health Services (DHS) is acting as an arbitrator. DHS recently met with the BVNPT and there has not been a lot of progress. DHS states that the BVNPT must adopt appropriate regulations before the DHS can refrain from enforcing the current regulations. The set of regulations is in progress and is under review by the Department of Consumer Affairs and it is our hope that they will be released soon. However, in the current political climate at the State, there are many “stalled” regulatory packages. If we fail in moving the regulations forward, we will have to introduce legislation to create a certification for a Certified Dialysis LVN. Michael Arnold then introduced Melissa Reyes from Department of Health Services.

The issue of initiating and discontinuing dialysis via central line catheter was not addressed during the meeting to which Michael referred. If “data collection” is done by LVNs, they must stop at the data collection and may not “assess.” Melissa stated that she feels this is often the problem; when an LVN notes an abnormality it is not reported to the RN for action. One attendee asked Melissa if an LVN could include breath sounds and heart rate/rhythm in the data collection. Melissa responded that the LVN can listen, but cannot take action. It must be reported to the RN. She suggested that job descriptions and competencies be changed to reflect this data collection responsibility.

With regard to the administration of IV medications, Melissa stated that LVNs may NOT perform this function. IV fluids may be administered *without* medication. The LVN, with IV certification, may administer solutions of electrolytes, nutrients, vitamins, blood and blood products. However, LVN's may NOT administer heparin, but CHTs may. If an LVN is also certified as a patient care technician, he or she may administer heparin. Melissa stated that as soon as the regulations change, she would notify the surveyors.

Melissa read the definition of social worker from the federal register:

A qualified social worker as defined in 405.2102 is a person who is licensed, if applicable, by the state in which practicing, and (1) has completed a course of study with specialization in clinical practice at, and holds a masters degree from a graduate school of social work accredited by the Council on Social Work Education; or (2) has served for at least two years as a social worker, one year of which was in a dialysis unit or transplantation program prior to September 1, 1976, and has established a consultative relationship with a social worker who qualifies under paragraph (1) of this definition.

She stated that with regard to the "licensed if applicable" requirement, since California has licensure for social workers, it is applicable. She further stated that the Board of Behavioral Sciences (licensing agency for social workers) agrees that ESRD assessment should be provided by an LCSW. The state is willing to compromise with regard to an MSW performing the psycho social assessment if the following are done: 1.) The contract between the provider and the LCSW must specify exactly what oversight the LCSW will provide the MSW. 2.) If the MSW develops competencies and is evaluated the LCSW based upon these competencies, the MSW (having successfully completed the competencies) will be allowed to perform assessments. Surveyors will exercise judgement regarding the adequacy of care delivered under these circumstances.

The question was raised regarding what, if any, duties a BSW may perform. Melissa Reyes stated that a BSW may only perform clerical duties and may not develop progress notes, care plans or assessments.

There is an additional category of social worker in California, the "Associate Clinical Social Worker." This position is defined as; "Any person who wishes to be credited with experience towards the licensure requirements shall apply to the Board for registration as an associate clinical social worker prior to obtaining that experience." The registration is renewed yearly for up to six years. Also, the associate is required to receive at least one hour of direct supervision for every ten hours of client contact in each setting where experience is gained. The web site for the Board of Behavioral Sciences that describes this position is www.bbs.ca.gov/lic-req3.htm.

Esther Marie Carmichael added her thoughts regarding the need for LCSW. She stated that our community has patients with high psycho social needs and those needs should be addressed. She feels that if an appropriate professional does not evaluate ESRD patients at an early stage, they may require greater social services intervention at a later stage.

Karen Dyer asked Ms. Carmichael if she had any news regarding the Conditions of Coverage. Esther Marie stated that the Conditions have been "recalled." She encouraged providers to make their thoughts known to CMS via the listening sessions being conducted by Central Office. She stated that Tom Scully is there and he wants to hear from people. She said he writes the field offices daily. There have been two dialysis-related listening sessions to date and the sessions are posted on the CMS web site. Carol DiRaimondo, MD. provided information on these open door meetings. There are two more ESRD meetings scheduled and they are as follows: Thursday, March 14, 2002 ID# 2815663 and Friday, May 17, 2002 ID#2815667. Dial in (800) 837-1935 (1:00-3:00 pm EST). An encore feature is offered within 72 hours of the open door meeting at (800) 642-1687.

Network Report: Doug Marsh reported as follows:

Networks #17 and #18, in a joint project, have completed the Advance Healthcare Directives facility document. A copy will be mailed to all California facilities in the next week. This document is intended to be a resource although Doug feels that it will eventually be a requirement.

1. The Network #18 annual quality improvement project will be on the topic of stenosis monitoring; a preliminary data collection document has already been sent to facilities. John De Palma, M.D. suggested that CDC make arrangements for a report at an up-coming Board meeting by the Bakersfield dialysis unit on their stenosis monitoring project.
2. Network #17 has been awarded the contract for revision of the Emergency Preparedness Manual by CMS. The manual is approximately 150 pages in length and will eventually be posted on the CMS web site.
3. Network #18 has among the lowest percentage of patients receiving peritoneal dialysis. The Medical Review Board is developing a modality selection project to examine this issue. CMS approval is pending.
4. CMS is pursuing electronic transmission of documents between providers and the Networks. There are three pilot projects currently running. The intent is to move forward with this, but it is unclear as to the timeline for California facilities to participate.
5. Annual Meeting. No firm date has been set at this time. The Board will consider this issue at its February 6th meeting.
6. The target date for the Network #18 web site is March 1, 2002.

Medicare Report: Nancy Ann James reported for the Medicare Committee.

1. Ferrlecit® is now reimbursed up to 125 mg/day.
2. Carol DiRaimondo, MD. reported that she attended Medicare Part B meeting in Northern California. Dr. Barry Straube gave a presentation. There is a limited LMRP for EPO (ESRD and non-ESRD use). By statute, EPO therapy cannot be initiated until hematocrit is less than 30; Dr. Straube will try to resolve this issue. Additionally, fiscal intermediaries are conducting edits of high-dosage prescriptions for EPO. The language regarding this review of the LMRP is available on the NHIC web site at: www.medicarenhic.com and board members were asked to review the document and comment before the March 3, 2002 deadline.
3. The raise in co-payment by the Medicare +Choice plans is legal up to the amount, which is equivalent to 20% of Medicare reimbursement. Apparently when CMS has approached some of the insurers they have backed off from the original co-payment amount. This is the first month of the new co-payment. Carol DiRaimondo, MD. reported that of the 10 patients at her facility who were Medicare +Choice, 5 went via open enrollment to other plans, 2 became Medicare-Medi-Cal, and 2 are now straight Medicare. Apparently, the original Medicare +Choice plan in her community stopped offering service. Other attendees stated that they are having patients complete financial forms and are renegotiating contracts.
4. An advisory committee has been formed regarding regulatory reform. CMS and Congress are getting interested in the pharmacy business again. For information on the Secretary's Advisory Committee on Regulatory Reform, visit: www.regreform.hhs.gov/outpatient.
5. Ellen Allen was unable to attend the meeting but will fax information on Carnitor® to the CDC office.

Medi-Cal Report: Sean Graham reported as follows:

1. Effective February 1, 2002, Zemplar® and Hectorol® will be covered by Medi-Cal. Refer to Medi-Cal Bulletin #330, January 2002. Or the CDC Web site at <http://www.caldialysis.org/documents/gm200201011.pdf>

2. Sean is working with Dr. Richard Sun of DHS Medical Policy Section for the elimination of TARs. He states these are time consuming on both sides. He is hopeful for either a complete elimination of the process or at a minimum, some change in it.
3. Sean reports that he is working with Dr. Sun and Mike Brown of Amgen to revise the Medi-Cal EPO policy. The year 2000 efforts by Dr. Farber at revising the policy resulted in a less restrictive, 90-day rolling average, and less restriction on dose based on medical justification. However, the system is quite complex and reimbursement seems to be somewhat inconsistent. Dr. Sun is willing to revisit and streamline the policy. Some possibilities are: eliminate or simplify documentation, gather Medicare LMRPs and find the most liberal and open-ended to use as the Medi-Cal policy, evaluate the language that defines "exception" and make it as inclusive as possible or perhaps not define exception at all.

NRAA Report: Mike Paget delivered the report for Jan Anderson. Mike Paget's company, Nephrology Consultants has taken on the responsibility for the management of NRAA. Mike feels that the two management responsibilities (NRAA and CDC) compliment each another and as a result he will be able to better serve both.

The Medicare Payment Advisory Commission (MedPac) has voted to recommend a 2.4% increase in the composite rate for 2003. They will present their recommendations formally in their report to the Congress in March.

Membership Report:

Sue Vogel delivered the membership report. She felt that since we are just at the beginning of the membership renewal year, it was not useful to list the current status. However, Gambro was recognized for having submitted a check representing membership renewal for 50% of their facilities in California.

Annual Conference: Sandra Wilson reported that there would be a reduction in registration fee for this year's meeting as a result of the shortened duration. Although CDC relies on the registration fees as a source of income, Sandra and her committee are hopeful that registration numbers will increase as a result of the shorter meeting and reduced fee and thus offset the lower registration fee. She also reported increased vendor sponsorship for this year's meeting.

Sandra asked that attendees at the Board Meeting share the Annual Conference programs within their companies to get wider coverage. Lori Hartwell requested donations for the silent auction, either in actual gifts or in monetary form. Lori can be contacted via the CDC Administrative Office.

Web Site: Bryan Wong, MD. reported that a teleconference between committee members and Mike Paget occurred last week. The topic of classified advertisements was discussed. The committee decided that dialysis chains (15 or more facilities in California) that have paid memberships for at least 50% of their facilities would be allowed one free generic advertisement. If an advertisement for a specific facility or position is desired, the fee will be \$50 for a 90-day advertisement for members and \$150 for the same duration ad for non-members. If job placement agencies choose to advertise via the site, they may only advertise specific positions and not place generic ads. When a paid advertisement is approaching its 90-day termination, CDC's Administrative Office will contact the advertiser regarding renewal.

Press release issues will be evaluated on an issue-by-issue basis regarding whether or not they should be posted. Information related to billing issues or other topics of general interest to the dialysis community will be posted on the web site. The address is: <http://www.caldialysis.org>.

Next Board Meeting: The next on-site meeting will precede the annual meeting in Palm Springs. Carol DiRaimondo, MD. proposed that a closed teleconference be organized in February to discuss Board nominations, etc. and, if needed, an open teleconference will be organized in March. This was approved by the Board. If a March open teleconference is scheduled, a notice will be sent to all members in the usual matter and those interested in participating will be able to register with the CDC Administrative Office to obtain the dial-in phone number and time. Watch the web site for further information on this topic.

**The next Open CDC Board Meeting will be held at the
Holiday Inn Oakland Airport on June 21, 2002**

**MARK YOUR CALENDARS FOR THE
CDC ANNUAL MEETING - APRIL 18-20, 2002
PALM SPRINGS MARQUIS RESORT**