

# CDC Report

Friday, June 21, 2002

Oakland California

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

1. Development of the state budget is underway in Sacramento. California has a \$23.6 billion deficit. Since the general fund is \$79 billion, one third of the general fund would have to be cut in order to cover the deficit. Revenue enhancements (increased taxes) have been added to vehicle registration fees and fifty cents a pack on cigarettes. Additionally, California will receive \$1 billion per year for the next 25 years as tobacco industry settlement. The plan is to issue bonds to spend those dollars in advance. Governor Davis has said that he is willing to increase the state income tax to the level that existed when he became governor. The top 2 percent of families would experience an increase in income tax. The Special Budget Conference Committee is meeting and proposed cuts are underway. Special interest groups are trying to prevent cuts in their areas and we are among them. Michael has been successful to date in preventing rollbacks in the non-emergency medical transportation services provided under MediCal. The budget bill is AB1777.
2. SB1344 (Haynes) *Health care: denial of desired life-sustaining health care* - has been converted to a study and probably will not make it out of the appropriations committee. In any case, since Senator Haynes and the governor are not on good terms, the governor will not likely sign it.
3. Medicare + Choice. Michael stated that he has not heard much from the community since late last fall on this topic and wondered if it is still an issue. Members present stated that remains a problem. Patients under the age of 65 who are Medicare eligible as a result of their disease, are unable to purchase medi-gap insurance when they leave Medicare+ Choice plans. This restricts funds available for their care. Jan Anderson stated that there are some states which mandate availability of supplemental insurance to the group under 65 years of age and NRAA tried to push for such legislation nationally. The insurance industry mounted intense resistance and the issue never moved forward. Michael Arnold asked if the group thought we should pursue this on a state level but he also stated that he believed the chance of getting it passed would be poor for the same reasons NRAA failed at the national level.

Michael informed those present of the existence of an organization called HICAP (Health Insurance Council and Advocacy Program) which is funded by health insurers and mandated by the state. The organization helps patients with insurance problems. HICAP can be reached at (800) 434-0222.

## Regulatory Report:

Michael Arnold reviewed the status of the proposed LVN regulatory language revision. The schedule we expect is as follows:

June 20 was deadline for comments on the revised language.

June 28 the BVNPT will meet in Los Angeles and adopt the new proposed regulatory language.

July 2002 the adopted language will be resubmitted to the Department of Consumer Affairs for approval.

August 16 is the deadline for resubmission of the regulations to the Office of Administrative Law.

September 16 is the deadline for the OAL to respond. OAL has 30 days from the date of submission to respond.

The OAL has stated that if we can demonstrate that nursing practice has evolved over time, they will reconsider the issue. Our best chance for success is via this route as Michael feels we will have little chance if we face off with the CNA in the legislature. The meeting on June 28 is at the Hilton Hotel LAX at 8:30 am. CNA will be there to oppose the regulatory language change. Further, they are mounting a large letter writing campaign in opposition. Mary Brattich has requested that as many RNs as possible try to attend this meeting to counter the CNA effort. Michael Arnold will report back on this issue at the August meeting.

**Social Worker.** Michael feels there is not much more that we can do. Despite our efforts with the state survey agency, we are limited by the federal regulatory language which requires a licensed social worker in states that offer licensure. We have, however, had some success in convincing the state to allow MSWs to provide most services as long as they have appropriate supervision by a LCSW.

**Network Report:** Arlene Sukolsky reported as follows:

1. CMS has funded a special project that will be administered by Network #17 Medical Review Board but will include Network #18, entitled *The Patients Who Try Our Patience*. Approximately 30 dialysis professionals will meet over a week-end in October to develop white papers on (1) Definitions that objectively describe patient behaviors, (2) Zero tolerance policies, and (3) An overview of facility responsibilities. Applicants from both Networks will be asked to submit written statements of their interest, experience, and skills for consideration. The tentative date is October 4-6 and the location may be Half Moon Bay or Stanford. Announcements of the event will be released in the community in July. CMS had considered a national consensus on this topic but has decided not to undertake the project at this time.
2. The *Emergency Book for Dialysis Facilities*, produced following the September 11, 2001 tragedy and has been and is awaiting final CMS approval prior to being distributed nationally.
3. Network #17 is proud of the progress with its web site, [www.network17.org](http://www.network17.org), and invites the community to visit the site. Arlene stated that a number of the questions routinely received by Network staff are actually on the web site.
4. The Quality Improvement Director position for Network #17 is still vacant and Arlene will appreciate any referrals. Network #18 also has a Q.I. department vacancy.
5. Annual Meeting for Network #17 was recently held in Sonoma. The topic was *Patient Safety is Everyone's Business* and the event received excellent evaluations. The Network #18 annual meeting will be October 11<sup>th</sup> in conjunction with the NRAA Meeting in San Diego.
6. The CMS Vital Information Systems for Improved Outcomes in Nephrology (VISION) will begin phase-in in July 2002. Initial participation in VISION is voluntary. There are three Networks which have participated in the pilot project. The VISION project is an information system that will collect and transmit ESRD patient information between facilities, the networks, and the government. It is HIPAA compliant with encryption.

**NRAA Report:** Jan Anderson delivered a report on NRAA activities:

1. A recent initiative to increase ESRD reimbursement by Medicare by 2.4% with a concomitant reduction in reimbursement for home dialysis has died. A new bill for prescription drug reimbursement is in the House right now. It includes a 1.2% increase for January 2004 and a study of home dialysis.
2. The Conditions of Coverage are now supposed to be released late this year.
3. Jan distributed a CMS up-date. CMS is providing advance notification that dialysis facilities will soon be receiving their up-dated quality measures from their Network. Facilities should review these carefully and comment where appropriate, as this is the data that will be published on the web in Dialysis Compare. Comments may be submitted to CMS via Internet by visiting [www.cfmc.org/esrddata](http://www.cfmc.org/esrddata). Instructions will be at that address for the comments. Additionally, CMS is preparing facility specific data reports for the state survey agencies from this same data.
4. OIG has recently completed a review of in-patient dialysis in the State of California. The review was triggered by the OIG settlement with the University of California hospitals last year. The main issue was documentation of physician presence during acute dialysis treatments. There will be on going scrutiny into the dialysis industry. You can download the OIG Report, "California Statewide Audit of Inpatient Hemodialysis Procedure Services" at the OIG website, <http://oig.hhs.gov/oas/oas/cms.html>
5. The NRAA Annual Meeting is October 10-12 in San Diego. On Wednesday, October 9<sup>th</sup>, there will be two one-day workshops. One of the workshops will cover Cost Reporting and the other, HIPAA Implementation.

**Medicare Report:** Tom Paukert reported for the Medicare Committee.

The Medicare report centered around recent fiscal intermediary interpretations regarding reimbursement for Vitamin D. Steve Collens, Abbott Renal Care, reported that there has not yet been a reimbursement policy issued by UGS but that 7 other FIs have. At this time, the only directive in place is Mutual of Omaha which covers a large Southern California facility. First Coast (Florida) has agreed to postpone their directive for two months. The seven fiscal intermediaries that have directives in various stages of the process will cover 40% of patients in the United States. There are two provisions included either separately or together in these directives:

Oral Vitamin D failure must be documented in advance of the use of I.V. LCA or payment of the least costly alternative when the IV product is used Trailblazer (Texas) has proposed a formal comment period that ends on August 15. Many California facilities are covered by Trailblazer as both FMC and DaVita use that FI. Steve Collens suggests that CDC send a letter to Trailblazer. Michael Arnold recommended that Tom Paukert follow through with that suggestion.

Mike Paget asked whether CDC wants to be proactive with Dr. Turek (UGS) on this topic. Tom Paukert suggested that a questionnaire be sent (Sue Vogel recommended that it be directed to the Nurse Director) for the purpose of collecting data regarding the effect of limiting vitamin D therapy for our patients. This data will be reviewed at the August CDC meeting and Dr. Turek will be invited to the October meeting (also in Los Angeles). Brian Wong suggested that in addition to the hypercalcemia resulting from interruption of IV vitamin D, that hyperparathyroidism and resultant parathyroidectomies and metabolic bone disease will also result. These will affect quality of life for our patients and will result in higher medical costs for Medicare.

NRAA has supported national coverage decisions, but some companies have been reluctant to request national decisions because if there is denial they are out of business.

**Medi-Cal Report:** Michael Arnold reported as follows:

CDC met with the Department of Health Services (Medi-Cal) to discuss billing issues that had been defined by California providers. Some progress was made and another meeting is tentatively set for August 5. One of the issues is to try to get Medi-Cal to allow facilities to provide the necessary additional justifying documentation along with original bills to prevent denials. (EPO)

Medi-Cal has said that they are going to move forward with removal of TARS in “summer of 2002.” TARS have traditionally been tied to Medicare Denial of Coverage for Medi-Cal patients but DHS states that they are able to receive that information electronically from Medicare. They are still in the pilot phase of the TAR elimination so there is some uncertainty about the real date.

**Membership Report:** Sue Vogel delivered the membership report. Facility memberships for 2002 are 63; facilities not renewed are 3 in addition to DaVita. Associate memberships are 42 for Gambro and 26 for FMC. 10 corporate memberships, 3 not renewed. 11 individual memberships, 1 not renewed. 15 physician memberships, 1 not renewed.

**Annual Conference and Meeting:** Sandra Wilson reported that there will be two topics for the November Oakland meeting. She plans to invite Dr. Barry Straube and Dr. Michael Turek to speak but will keep their presentations as brief overview. The attendees at this meeting suggested that HIPAA Privacy implementation (nuts and bolts) be a main topic. NRAA will have similar presentation at the San Diego annual meeting but according to Jan Anderson, it will not be a nuts and bolts approach. Jan also mentioned that NRAA will have a HIPAA Manual- similar to the Corporate Compliance Manual- for sale. The CDC Annual meeting was a success both in terms of its financial picture and its reviews by participants. Next year’s meeting will be April 10-12 in Palm Springs. The “Big 3” panel was very well received and will probably be repeated. Sandra also thinks a vascular access panel will be timely.

**Web Site:** Bryan Wong reported that we finally have a paid advertisement on the web site. [If an advertisement for a specific facility is placed, the fee is \$50 for a 90-day advertisement for members and \$150 for the same duration ad for non-members.] Gambro has placed a paid advertisement.

Brian suggests that CDC look into the cost of a service that could identify who is visiting the web site.

**The next Open CDC Board Meeting will be held at the  
Ramada Plaza Hotel - LAX North on August 16, 2002**