

CDC Report

March 16, 2001

Oakland, California

Legislative Report: Michael Arnold provided the following legislative review:

1. *Medi-Cal Rate increase.* Michael Arnold met with Stan Rosenstein and Cecelia Kaiser. Ms. Kaiser recognized that the dialysis community has not had a Medi-Cal reimbursement increase, and Mr. Rosenstein stated that the Department of Finance has said that increases can only be made via legislative action, no Department can recommend an increase. As a result of the energy crisis Governor Davis has frozen all state funds that are not already encumbered. CDC will have to go before the budget committees of the legislature to request an increase and Michael Arnold is setting this up.
2. *New Legislation:*
 - AB 32* Keith Richman, the only physician in the legislature, introduced this bill. It would provide a range of health care coverage options including subsidized packages for low-income persons. Our position is to watch this.
 - AB 95* Assembly Budget for 2001-2002.
 - AB 131* Would reduce the limitation on some services covered by Medi-Cal. Our position is to watch this.
 - AB 903* Santa Clara County, as a pilot site, is providing non-emergency medical transportation under contract with Medi-Cal. Our position is to watch this and Michael Arnold requested that any CDC member with facilities in the area contact him with comments.
 - AB 1140* Declares the intent of the legislature to address the nursing shortage. Our position is to support.
 - SB 35* Tobacco settlement fund allocation of \$25 billion over 25 years. California would receive a large part and the monies will be dedicated to healthcare. Our position is to watch.
 - SB 75* Senate Budget for 2001-2002.
 - SB 108* This is an organ donor bill which would require the state Department of Motor Vehicles to send information and a standardized form to applicants for a driver's license or identification card. Michael Arnold to research this prior to our determining a position on the bill.
 - SB 402* Medi-Cal share of cost adjustment for persons 19-20 years of age. Currently an individual 18 years of age or less can receive a share of cost reduction based upon 133% of the poverty level while 19 and 20 year olds can only have reduction based on 100% of the poverty level. Our position is to support this bill.
 - SB 696* Medi-Cal discount prescription drug benefits. This bill, unlike last year's version, does not appear to exclude dialysis patients. Michael Arnold will send a copy of the bill to CDC Board members and he suggests supporting it.
 - SB 697* This is an additional prescription bill. Michael Arnold will research the bill and suggests at this time that our position be to watch.
3. *Electrical Back up Generators.* A legislator contacted Michael Arnold regarding proposing a requirement for generators for dialysis facilities. As a result of the discussion of this topic at the last Board meeting, Michael was able to advise the legislator of the various issues and the legislation was not introduced.
4. *AB 1202* implementation is still in the hands of the Department of Health Services.
5. *Medi-Cal Share of Cost.* As covered in the January 2001 NRAA Newsletter, Federal Health and Human Services enables states to help patients with slightly increased income to write off medical expenses in order to remain Medicaid (Medi-Cal) eligible. (For reference, Jan Anderson says this article is on the page with the NRAA reports.)
6. *Social Worker.* According to sources at Gambro, this seems to be less of a problem at this time. Mary Brattich stated that in San Diego, surveyors are enforcing requirement for LCSW and writing condition

level deficiencies when MSW or BSW personnel are utilized. There are inconsistencies in the survey process based upon the DHS office and HCFA is aware of these. Arlene Sukolsky stated that the Department of Health Services says LCSWs should be available to all clinics for psychosocial assessments. HCFA Region IX has requested that the state Social Work Board make a determination regarding the acceptability of MSWs in dialysis facilities. HCFA is waiting for the California Social Work Board to respond.

Regulatory Report:

1. *LVN Issue:* Mary Brattich reported on the LVN issue. The BVNPT has scheduled a meeting for proposed regulations regarding the LVN scope of practice in dialysis for 1:00 p.m. on April 17, 2001. The meeting will be held in room 1030 at 400 R Street in Sacramento. The results of this meeting as well as all public comment will be forwarded to the Office of Administrative Law for review. Ann Shuman of the BVNPT has requested that the dialysis community send letters of support and she believes the public comment will be the best means for change in the regulations. Responses should be individualized rather than form letters. Ann Robar expressed concern that the main focus of the proposed change seems to be the administration of I.V. medications when the original focus of the CDC was the access of central venous lines for the initiation and discontinuation of dialysis. Members were encouraged to include catheter access in their letters of support.

The deadline for comment is April 16. And the address information is as follows.

BVNPT, 2535 Capitol Oaks Drive, Suite 205, Sacramento, CA 95833 - (916) 263-7859

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2. *OSHA (report by Jan Anderson)*
 - a. As reported at the November 2000 Board meeting, Jan Anderson again reiterated the fact that Federal OSHA has enacted a sharps safety rule as a component of the Bloodborne Pathogens regulation.
 - b. Both Houses of Congress have sent the onerous Federal OSHA Ergonomics rule, enacted during the final month of the Clinton administration, to President Bush for repeal. In California, the State OSHA ergonomics rule still applies to all work sites.
3. *Hospital Staffing Ratios:* CNA just published staffing ratios that apply to dialysis centers in hospitals at the rate of three patients to one RN. It will be effective on January 1, 2002. Several Board members voiced concern that hospital dialysis centers, which are largely unrepresented on the CDC, will not be aware of the regulation.
4. *HCFA Administrator:* Thomas Scully, a member of the DaVita Board of Directors, has been appointed the new Administrator for HCFA.

Ferrlecit ®

Tim Chole, with Watson Pharmaceuticals, reported that there have been significant label changes for Ferrlecit. First, the warning (previously a "bold" statement) has been down-stated and is no longer "bold." Additionally, there is no longer a requirement for a test dose on the label and dosage of 12.5 mg./minute undiluted by slow I.V. push has been allowed. The Medicare J-code for the product is J2915.

NRAA Report:

Jan Anderson delivered the following NRAA report.:

1. The revised version of the HCFA 855 is due to be released in July of this year.
2. HCFA and NIH are considering a trial for daily dialysis. A two-day meeting is scheduled in Washington, D.C. next month for the purpose of evaluating this. HCFA reimbursement for daily dialysis will not be available until the completion of the trial and, thus, there will be a gap in payment. RPA is suggesting an incremental increase in frequency of treatment, beginning with four treatments per week for specific

patients (e.g., large patients); and is suggesting a three-year clinical trial. Access, the company manufacturing the daily dialysis machine, expects FDA approval soon.

3. Revision of the three major HCFA forms (2728, 2744, 2746) for dialysis is underway. For the 2728, the requirement for Network review has been eliminated, the number of lab results has been reduced, and required information regarding employment status and insurance has been removed. Pre-ESRD care has been added as a section. The new forms will probably be out in January of 2003.
4. The OIG is performing a study entitled "Data Driven Approach to CQI in Large Corporate Chains."
5. The long-awaited Conditions of Coverage revision is included in the regulations "frozen" by the Bush administration. They will not be out, as anticipated, by June of this year.
6. The new Patient Safety Committee, which was described at the last Board meeting, will meet this month to set an action agenda.
7. FMC has announced that it will be discontinuing the practice of reusing dialyzers.
8. United Steel Workers and healthcare workers are joining together in an attempt to unionize non-RN workers in hospitals, skilled nursing facilities, and other healthcare operations.

Network Report: Arlene Sukolsky reported as follows:

1. Advance Healthcare Directives. Networks 17 & 18 have prepared an educational document for patients that describes AB891. This document replaces the Network 17 document developed when the Federal Patient Self-Determination Act was passed. Included are comparisons of the two laws, a section on DNR, and a sample form. Both Network Boards have approved the document and it will be distributed to the social workers at all facilities with the recommendation that each facility be responsible for duplicating it and incorporating it into their patient planning programs and counseling. A companion document, a Facility Guide to implement the new law, will be developed following further study and clarification from the CDC consultant and the American Bar Association. Arlene further stated that she believes the loophole in the Patient Self-Determination Act may be closed by HCFA action. This action would require that dialysis facilities provide patients with Directives options upon admission.
2. Standards of Care. Phase I of implementation of the Network 17 Standards of Care will begin April 1. Providers (usually at the corporate/regional level) will receive the first three sections (governance, leadership, medical staff) and asked to check whether or not they are meeting the standards. The Network will request explanation if the response is "no." At the conclusion of phase I, the Medical Review Board will evaluate the responses and determine a timetable for phase II.
3. HCFA Survey/Provider Education Meeting. HCFA is planning an educational meeting for ESRD providers for June 6, 2001 at their Region IX offices. The objective is to provide consistent information with regard to the survey process. They will explain their requirements regarding the completion and filing of a plan of correction. Invitations to this meeting will be issued by HCFA. The Medical Director for Region IX, Dr. Barry Straube, is a nephrologist and can be reached at 75 Hawthorne Street, San Francisco 94105. His e-address is bstraube@hcfa.gov.
4. Disaster Preparedness. With summer coming and rolling power outages a certainty, ESRD facilities need to develop a plan.
5. Web Site. Network 17 continues the development of its web site. The plan is to post "anything and everything" except where a provider, facility, or patient could be identified. Fees for directories, reports, etc. will be discontinued, as they will be available on the web site.
6. RESPOND project. The telephone peer-counseling project will soon have completed its six-month pilot phase; the Board of Directors will evaluate its effectiveness.
7. Adequacy project. Network 17 is awaiting approval from HCFA for its adequacy project. All Networks have been required to address adequacy this year with a goal of 80% of patients achieving URR of 65%.

Medicare Report: Mike Paget reported that United Government Services has approved Venofer® under a local billing code of W0121 with a revenue code of 0636 at the rate of \$65.36 per 100 mg.

Medi-Cal Report: Ann Robar had no news for the Medi-Cal report.

Annual Meeting: Sandra Wilson reported that the brochures have been mailed out. The reception, including a silent auction for CDC PAC funds, is still being worked on. The proposed dates for next year's meeting are April 18-21, 2002.

Membership Report: The membership report was delivered in Sue Vogel's absence. There are currently 110 facility memberships (40 not renewed), 9 corporate memberships (4 not renewed), 6 individual memberships (5 not renewed), and 15 physician memberships (3 not renewed). Debra Punch thanked the smaller groups like Satellite Dialysis, Innovative Dialysis, and Kidney Center, Inc. for their continued support as well. She stated that she wanted to be sure to publicly thank all who support the California Dialysis Council.

Other Business: Two meetings, one in Northern and one in Southern California, have been set up as educational programs on the topic of the Healthcare Decisions Law. These will take place on April 3rd in Southern California, and April 6th in Northern. Space is limited at both sessions and registrants will be accepted on a first come, first served basis. The speaker will be Shirley Paine, Esq from the law firm of Foley & Larder

**The next open CDC Board Meeting
will be held at the Ramada Plaza Hotel - Culver City
on June 15, 2001
There is NO meeting in April 2001**

Just as a reminder !

Registration reservations for the 19th Annual California Dialysis Council Meeting May 9th - 12th, 2001 at the Marquis Resort Palm Springs must be received at the CDC Administrative Office by April 9, 2001 to qualify for the "Advanced Conference Registration Rate"

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Hotel reservations should be made by April 9, 2001 to guarantee space and the established group rate.

If you need a brochure/registration form emailed or faxed to you, please call the CDC Administrative Office at (520) 717-1156.

Thank You