

CDC Report

Friday, November 16, 2001

Oakland, California

Regulatory Report:

Michael Arnold presented an update on the two ongoing regulatory issues: LVNs' role in dialysis and Social Workers.

LVN: More frequent surveys by the Department of Health Services have resulted in the identification of problematic areas especially since some are associated with poorly defined regulations. Multiple layers of regulatory agencies tend to complicate the problem as the agencies do not necessarily agree on the appropriate resolution. LVNs have initiated and discontinued dialysis via a catheter traditionally; this has only recently become an issue with regulatory interpretation. The ongoing dispute regarding what duties an LVN can perform in dialysis is currently being approached with regulatory language changes. If no resolution can be achieved using this route, the CDC may sponsor legislation.

Six participants stated their facilities are restricting admission of patients with catheters as their primary access because they do not have sufficient R.N. staff. Michael Arnold requested that those people submit a short written statement to him so he can use them in his communications with the Department of Health Services.

One attendee from the Central Valley stated that she was cited for LVNs doing pre and post dialysis assessments. However, she said that the local acute hospital uses LVNs to assess patients in their ICU. Apparently Melissa Reyes from the California Department of Health told the group meeting in Long Beach last week that she is re-evaluating the definition of "assessment."

Social Worker: The federal law states that "a qualified social worker is a person who is licensed, if applicable, by the state in which practicing and... holds a masters degree from a graduate school of social work accredited by the Council on Social Work Education";. It is the CDC Boards position that the "if applicable" statement applies only to psychotherapy and other duties related to licensure. We believe that an MSW should be able to perform most of the social work duties in a dialysis facility. There is a multi-agency meeting set up for November 27th at 1:00 p.m. on this topic.

An MSW in the audience, Karen Ehlebracht, stated that California regulations state that in order to practice independently or to supervise other social workers, one must be licensed. She stated that regulations say that practice in an agency setting (which included dialysis prior to this year) only requires an MSW.

Dr. Barry Straube, Chief Medical Officer for CMS Region IX, stepped to the microphone. He informed the group that the LVN issue is a State Title 22 issue. He said that CMS oversees the state agencies, but cannot tell the states how to interpret their law. Next Monday CMS, the Network, and the state DHS are meeting to discuss these issues. With regard to the LCSW issue, he stated that the regional level CMS feels that a more liberal interpretation is appropriate. That office would like to see supervision instead of the LCSW being required to perform the assessment.

Legislative Report: Instead of delivering the usual legislative report, Michael Arnold told the group that he would be describing the legislative process in greater detail during his afternoon presentation. He will review the 2001 Legislative Highlights report (a copy is available on our website).

<http://www.caldialysis.org>

Network Report: Arlene Sukolsky reported as follows:

1. Advance Health Care Directives. A Facility Guide has been prepared by the committee responsible for development of both the patient and facility guides. This draft document, explaining the California laws and suggesting ways to implement AHCD's in dialysis facilities, will go to the Boards of Directors of Networks #17 and #18 within the next 30 days. After what is hoped to be minor revisions, it will be distributed to all California facilities. Arlene stated that she believes the new Conditions of Coverage will include language requiring dialysis facilities to offer patients the option of completing directives.
2. Disaster Preparedness. CMS has contracted with Network #17 to update the manual for disaster preparedness in dialysis facilities. A multi-disciplinary, multi-network task force is already at work and a final draft is anticipated February 1, 2002. The revised manual will be available on the CMS web site.
3. Challenging Patient National Conference. CMS may be coordinating, with the assistance of Network #17, a consensus conference on difficult patients.
4. Web Site. Please visit www.network17.org for a look at the revised web site. The first department to be completed is patient services, with other departments scheduled for revision soon.
5. Patient Safety Initiative. This is a major interest of CMS, and Networks are challenged to implement a teaching program for their facilities. Network #17 will describe its program at the 2002 Annual Meeting to be held Thursday, June 6, 2002, at the Inn at Sonoma.

Medicare Report: Nancy Ann James delivered the following report: The renal community, especially in California, has been hard hit by the announcements by some Medicare+ Choice plans of a required patient co-pay. Secure Horizons has sent its members a notice requiring a \$50 per treatment co-pay and Blue Cross, a \$25 per treatment co-pay. A representative from DaVita stated that they have asked their patients who are affected to write grass roots letters to their representatives in Washington, D.C. Gwen Gampel, the NRAA legislative advocate, advised that Tom Scully has written to Secure Horizons to "roll back" their co-payment requirement. Since CMS has no legal authority to require a change in the co-payment requirement, the next approach would be to change legislation giving them that authority. This, of course, would not be of help in the short term since the increased co-payments become effective in January of 2002.

Peter Crooks stated that Kaiser is increasing some areas of co-payment (like hospitalization), but not dialysis treatments at this time. Also, unfortunately, Dr. Crooks stated that patients couldn't just switch from Secure Horizons to Kaiser or any other HMO.

Medi-Cal Report: Sean Graham reported that there is nothing new in Medi-Cal since last month's meeting but reiterated the following: Ferrlecit® has a procedure code and is reimbursable. Effective August 1, 2001, the Medi-Cal rate for dialysis increased to \$141.31 (2.4% increase). Dr. Richard Sun has replaced Dr. Michael Farber in the Medi-Cal benefit's section of DHS. Dr. Sun intends to include Zemplar®, Activase® and Hectrol® on his list for expert opinion.

Dr. Sun, who attended the meeting, introduced himself and said he looked forward to working with the CDC.

Membership Report: Sue Vogel delivered the membership report: There are currently 150 facility memberships, 107 associate memberships, 12 corporate memberships (3 not renewed), 9 individual memberships (3 not renewed), and 15 physician memberships (3 not renewed). Corporate membership is as follows: DaVita 43 out of 81 (53%), FMC 25 out of 50 (50%), and Gambro 25 out of 73 (34%). The "out of" numbers have not been confirmed with the corporations.

Annual Conference: Sandra Wilson stated that the theme for this year's Annual Meeting will be "The Future of Healthcare and the Renal Community." The meeting is April 19th and 20th with the registration on the afternoon/evening of April 18th. Sandra states that she is looking for sponsors for a couple of speakers. Peter Crooks suggested daily dialysis and nocturnal dialysis as topics the futurist might discuss.

Web Site: The new CDC website is up and running and a committee has been appointed to help administer it. The address is <http://www.caldialysis.org>. It is not the intent to compete with Renal Web, NRAA or other community sites. The information and issues will be California specific. Classifieds will be available and those interested should contact Mike Paget.

**The next Open CDC Board Meeting will be held at the
Holiday Inn Media Center • Burbank on January 18, 2002**

Mark your calendars for the
CDC Annual Meeting - April 18-20, 2002
Palm Springs Marquis Resort