

# CDC Report

Friday, October 19, 2001

Culver City, California

**Legislative Report:** Kristian Foy distributed a comprehensive summary of legislative activity and presented the following legislative review:

1. 2001 is the first year in a biennial legislative session, so any issue still not resolved in the 2001 legislative session can be continued next year.
2. The state budget general fund expenditure contains a 1.7% decrease. The 2002-2003 fiscal year appears to be in difficult shape with a 15% across the board cut.
3. In an up-coming Bulletin, Medi-Cal will announce a rate increase for dialysis services of approximately 2.4%. This increase, as a result of the lobbying efforts of the CDC, will apply to services rendered on or after August 1, 2001. The new rate is \$141.31.
4. Jan Anderson stated that the rolling electrical outages, predicted as a result of the state's power crisis for last summer, did not occur. She suggested that the CDC work with the PUC to support action on the recommendation by "Exponent" that all dialysis facilities be exempted from rolling power outage. 29 dialysis facilities (many operated by DaVita) were among the 404 companies granted an exemption.
5. Pursuant to the 2000 Census, the state has had reapportionment. The final agreement between Democrats and Republicans resulted in a plan which solidifies the current ratios for all houses of state and federal government.
6. SB 1027 (Romero), a bill prohibiting mandatory overtime for nurses and other hospital staff, is on hold. Senator Romero has the option to take the bill up in the next legislative session. CDC will continue to oppose this bill.
7. AB 1202 (Technician Training) removed the sunset clause in the hemodialysis technician training regulations. Lawyers for DHS are now of the opinion that statutory changes are necessary prior to the implementation of the regulations. DHS staff is now working on regulatory language. In light of the recent problems around LVN laws and regulations, it was suggested that we may not want to give DHS this much broad authority.
8. The issue of medical transportation was not picked up this year but will be approached again next year.

Ms. Foy also provided a copy of the state DHS response to effort by the CDC to obtain a blanket program flexibility for facilities reusing dialyzers for hepatitis C positive patients. The state says that they have no capacity for granting "blanket" program flexibility and that facilities will have to request such on their own.

## **Regulatory Report:**

1. Social Worker Issues. Michael Arnold's office has been working on behalf of the CDC to secure clarification of the need for LCSW positions in dialysis. They have requested written clarification from CMS and/or DHS and have requested a meeting with representatives from those two organizations and the Board of Behavioral Sciences (BBS) to discuss this issue. The possible meeting dates are November 27 or 28.
2. LVN Issues. At the Board of Vocational Nursing & Psychiatric Technicians (BVNPT) November 16, 2001 meeting, the final regulation package will be sent to the highest levels of the Department of Consumer Affairs and then on to the Office of Administrative Law. Although there was discussion as to whether this package might actually address the issue of LVNs initiating and discontinuing dialysis, we are hopeful that the passage of this regulatory language will convince the BRN to reconsider their stand on this issue as well as administration of some drugs. The BVNPT staff have indicated that this process may not be complete before February 2002.
3. Karen Dyer distributed a pamphlet that describes the three new OSHA 300 Log forms in detail to all in attendance. The Log replaces the OSHA 200 in January of 2002. The 200 Log will still be posted in February of 2002 despite the fact that new illnesses and injuries are recorded on the 300 Log. In 2003, the 300 Log will be posted and the requirement for posting will be three months instead of the current one-month requirement.

**NRAA Report:** Jan Anderson delivered the following report from the NRAA:

1. The Renal Coalition met with CMS in September. The following issues were reviewed.
  - a. The Bundled Rate Study is due to be released in July of 2002. Robert Wolf is conducting the study at the University of Michigan. The Renal Leadership Council is conducting a separate study on the same topic. The studies evaluate rolling composite rate, EPO and other billable drugs, laboratory tests, etc. into one rate. The main issue will be how the rate is established and how to allow for coverage of new technology as it arises.
  - b. A congressional study of the "market basket adjustment" for dialysis providers is due out in July of 2002.
  - c. NIH is performing a clinical trial of daily dialysis and CMS is now saying they may not fund the study.
2. The plan under HIPAA is to eliminate local J codes. The renal community utilizes these codes more than any other community and the NRAA is working to attempt to resolve this potential problem.
3. NRAA will be sponsoring meetings in the coming year regarding HIPAA implementation.
4. VISION, the CMS facility electronic reporting mechanism, will be available for voluntary participation by dialysis facilities in April 2002.
5. NRAA has posted a survey on their website requesting information from the community regarding the Dialysis Compare CMS website. Jan asks that facilities please respond to this.
6. The three main OIG work plan areas for the dialysis community for 2002 are as follows:
  - a. Excepted EPO claims.
  - b. Method 2 billing (program vulnerability and adequacy of CMS oversight).
  - c. Utilization of separate billable items (coding, etc.).
7. In order to obtain a 2.6% increase in the composite rate, the NRAA Board has voted to support extending the Medicare secondary payer period to 36 months.

**Network Report:** Doug Marsh reported as follows:

1. Director Scully thinks the Dialysis Compare website is wonderful (despite renal community beliefs that it has many limits). Watch the accuracy of reporting on the site as it may be used for decision-making by CMS.
2. VISION. No facility will be *required* to submit data electronically. One of the last draft versions of the revised Conditions of Participation did include a requirement for electronic capacity and that was dropped at the time due to a belief that not all facilities had computers. Perhaps the new Conditions will require electronic capacity and then VISION reporting could become mandatory.
3. Consensus Conference on Dealing with Challenging Patients. Network #17 is expected to receive a contract with CMS to coordinate this conference. The goal is to help facilities deal with this very important issue.
4. CMS is revisiting disaster preparedness in the wake of the September 11, 2001 terrorist attack. Networks 17 and 18 will review and revise existing materials.
5. CMS is offering a second Provider Education conference at St. Mary's Medical Center in Long Beach on November 13. Anyone who did not attend the Northern California meeting should plan to attend this repeat session.
6. It is Flu Vaccination season again. Doug states that the two California Networks have the lowest vaccination rates in the country and will be providing educational materials and collecting facility specific data as part of a new Q.I. project. Dr. Straube conducted an Influenza Summit in Northern California and Arlene Sukolsky and Carol DiRaimondo attended. CMS apparently has no authority to mandate the quantity of vaccine produced or its distribution.

**Medicare Report:** The CDC offices are receiving many telephone calls regarding the new HMO requirement for patient co-pay for dialysis services (PacifiCare \$50/treatment, Blue Cross \$25/treatment). This is a national problem and we have passed on the relevant information to the NRAA. Jan Anderson, NRAA Past President stated that she would pass any new information she gets on this topic along to Mike Paget for distribution.

Mike Brown with Amgen, discussed their new drug, Aranesp. He stated that it has a 3-fold greater half-life than EPO. Dosing begins weekly and then moves to every 2 weeks. There is a non-linear relationship between EPO and Aranesp. That is, at the higher dose range, less Aranesp is needed than EPO at that same dose range. He stated that the pricing is "comparable." Managed Care Organizations are evaluating Aranesp and are adding it to their formularies. Its use is for anemia of ESRD both pre-dialysis and for dialysis patients. An APC code has been applied for (for acute care) and will probably be available the first quarter of 2002. There is currently no fiscal intermediary reimbursement code for Aranesp provided in dialysis centers.

**Medi-Cal Report:** Sean Graham reported as follows:

Dr. Richard Sun has replaced Dr. Michael Farber in the Medi-Cal benefits section of DHS. He is planning on attending the Northern California CDC meeting in November. Zemplar®, Activase® and Hectrol® are on his list for expert opinion.

**Annual Conference:** Sue Vogel reported that the committee is currently finalizing arrangements with speakers. There is still a need for a speaker on the topic of future directions in health care. If anyone knows of a good presenter in this area, please let the committee know.

**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). Two new memberships were announced, one facility (Plumas Street Dialysis- American Renal) and one corporate (Bone Care International).

**Meeting Agenda for 2002:** The Board approved five Board Meetings for 2002 (January 18<sup>th</sup>, Burbank • April 18-20<sup>th</sup>, Palm Springs-Annual Meeting • June 21<sup>st</sup>, Oakland • September 20<sup>th</sup> Los Angeles • November 15<sup>th</sup> Oakland). Board Meetings via teleconference (open and announced) will be scheduled if necessary for February and March. This format will be reevaluated at the Annual Meeting to determine whether it is meeting the needs of the Board and membership.

**Web Site:** Mike Paget reported that the website is ready to go and he would like to have volunteers for a committee to oversee posting. Tom Paukert said that he would appoint a committee. The Board decided that the site should also post classified ads for staff positions and that there will be a charge for these. The test site is <http://www.commspeed.net/mjpaget>. The final site address will be <http://www.caldialysis.org>.

**The next Open CDC Board Meeting will be held at the  
Hilton Hotel • Oakland Airport on November 16, 2001**

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