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California Dialysis Council

LEGISLATIVE HIGHLIGHTS 2008 LEGISLATIVE YEAR

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These “Legislative Highlights” consist of both a general overview highlighting some of the key issues addressed during this legislative year and a more comprehensive “Legislative Status Report” generated by our bill tracking system. The status report is attached at the end of the highlights and shows the final status of all the legislation we followed during the year. As you will note, the status report includes the following information on all of the bills we followed:

Bill Number, Author, and Title
Our Final Position on the Measure
Final Location or Chapter Number
Brief Summary

Importantly, the status report reflects the final position taken on the bill. The final position may be different from the position taken on the bill as originally introduced. Amendments to a bill frequently lead to a new position. This is especially true when the amendments are made at our request. For example, we frequently adopt a position of “Oppose Unless Amended” and move to a “Watch” position after our amendments are adopted.

Effective Dates of New Legislation

The bills that were passed by the Legislature and signed by the Governor will take effect on January 1, unless they include an urgency clause or contain a provision calling for some other effective date. Urgency measures take effect immediately upon chaptering by the Secretary of State. Bills are normally chaptered on the day following their signature by the Governor.

Key Issues of Interest

1. 2008-2009 State Budget

In January, the Schwarzenegger Administration presented the 2008-2009 State Budget for consideration by the Legislature. It immediately became clear that this was going to be a very difficult budget year. The budget was finally signed by Governor Schwarzenegger on September 23, ending the longest budget stalemate in California’s history. The Legislature initially passed the budget and a number of measures implementing the budget on September 15. Subsequently, the Governor threatened to veto

the budget unless certain changes were made to an accompanying measure changing the state's budget process, and ultimately the Legislature agreed to the Governor's demands on Friday, September 19. The last minute changes to the agreement included adding tough restrictions on the use of funds from the Budget Stabilization Fund (BSF) and replacing a provision that would have increased amounts withheld from personal income taxpayer's paychecks with enhanced penalties for corporations that underpay their taxes.

The final spending plan includes \$24.0 billion of solutions, including \$10.3 billion in spending cuts, \$9.6 billion in revenue-related provisions, and \$4.0 billion in borrowing. Of this amount, \$7.1 billion was scored to 2007-08 or prior years and \$16.9 billion was scored to 2008-2009. The new spending plan assumes that the state will seek voter approval to borrow an additional \$10 billion or more that would be repaid out of future lottery proceeds to address future years' budget shortfalls. The expenditure reductions include a \$510 million cut through the Governor's use of his line item veto authority.

2. Medi-Cal Provider Rate Cuts –

The Governor proposed a 10% cut in Medi-Cal reimbursement rates as part of the 2008-2009 State Budget. In addition, the Governor declared a fiscal emergency, called a special session of the Legislature and passed a mid-year Medi-Cal 10% rate cut, effective July 1st, and reimbursement delays. We strongly objected to the cuts. During the budget deliberations we worked with a coalition of other provider groups to work against the rate cuts being extended into the new fiscal year. At the same time, the coalition filed a lawsuit, to stop implementation of the rate cut. In August the court handling the case issued a temporary restraining order (TRO) relating to certain providers, preventing the implementation of the rate cut pending resolution of the lawsuit.

As we write this summary, the TRO issued by the courts has stopped the 10% cut as of 8/18/08. In addition, we were successful in convincing the Legislature to restore most of the cut as of 3/1/09. The situation is :

7/1/08 – 8/17/08 = 10% cut applies

8/18/08 – 2/28/09 = 10% cut does **NOT** apply pending resolution of the lawsuit

3/1/09 – ongoing = 1% cut applies unless rejected by the courts

3. AB 501 (Swanson) – Pharmaceutical Device

This bill Requires a pharmaceutical manufacturer, upon request of a consumer who has been dispensed a prefilled injection device for home administration (such as a prefilled syringe), to arrange to provide the consumer with a sharps container, a coupon for a sharps container or a toll-free telephone number or Web site on the device package that directs the patient to a sharps container supplier. AB 501 responds to the urgent need to keep more than three billion used medical sharps out of the nation's municipal waste stream each year. Most of these used needles end up in household trash and pose a significant risk of injury and/or infection to children, sanitation workers, and solid waste employees. We carefully watched this bill as it made its way through the legislative process. AB 501 passed the Legislature and was sent to the Governor's desk. The bill was vetoed by the Governor. In his veto message the Governor mentioned that while he supports the safe and proper disposal of home-generated sharps waste, the bill only applies to the disposal of prefilled injection devices. He stated that although the use of these devices is increasing, omitting other types of home-generated sharps from the bill could potentially create an unintentional disincentive for the production and use of these prefilled injection devices.

4. AB 2440 (Laird) – Medi-Cal Reimbursement Codes

This bill requires the Department of Health Care Services to annually adopt specified disease codes adopted by the federal Centers for Medicare and Medicaid Services by October 1 of the year in which the codes are published, or any date subsequently established by the federal government, and requires the updated codes in the Medi-Cal provider bulletin. We strongly supported AB 2440 along with the California Medical Associations and others. We argued that this bill is needed because, when a provider submits their bill to Medi-Cal using the updated codes which federal law requires them to use, DHCS denies the claim because DHCS has not updated the Medi-Cal system with the new codes. As a result, providers must go through an arduous and timely process of either re-coding the claim or appealing the denial. AB 2440 was passed by both houses of the legislature and sent to the Governor. Unfortunately, the Governor vetoed the bill. The bill fell victim to the historic budget delay and was vetoed with the following message from the Governor “the historic delay in passing the 2008-2009 State Budget has forced me to prioritize the bills sent to my desk at the end of the year’s legislative session. Given the delay, I am only signing bills that are the highest priority for California. This bill does not meet that standard and I cannot sign it at this time.”

5. AB 2463 (Davis) – Diabetes

AB 2463 would require the Department of Public Health to provide an allowance to the Charles Drew University of Medicine and Science, in conjunction with the Diabetic Amputation Prevention Foundation, to conduct a diabetes and hypertension prevention and awareness pilot program in south Los Angeles. The bill would require the pilot program to specifically focus on low-income and minority neighborhoods. 21 million Americans (including 2 million Californians) have diabetes, which is the fifth-leading cause of death by disease in the United States. Additionally, more than one-third of the people with diabetes, 6.2 million Americans, do not know that they have the disease. For these reasons we supported AB 2463. Unfortunately, due to cost concerns, the bill was held in the Senate Appropriations suspense file.

6. AB 2747 (Berg) – End-of-life Care

AB 2747 seeks to facilitate meaningful end-of-life care communication between doctors and their patients by enacting the California Right to Know End-of-Life Act of 2008 to ensure that health care providers provide critically-needed information in carefully-circumscribed instances. In an attempt to facilitate meaningful end-of-life care communication between doctors and their patients, this "patient disclosure" bill seeks to enact the California Right to Know End-of-Life Act of 2008 to ensure that health care providers provide critically-needed information in carefully-circumscribed instances. In order to ensure that health care providers who might be uncomfortable speaking about various end of life issues with their patients are not forced to do so, the measure provides a helpful mechanism for the referral or transfer of the patient to another health care provider who does not feel so constrained. AB 2747 passed the Legislature and was sent to the Governor’s desk. The bill was signed by the Governor as Chapter 683, Statutes of 2008.

7. HR 26 (Leno) – World Kidney Day

HR 26 recognizes March 13, 2008, as World Kidney Day and the important role World Kidney Day plays in helping health care professionals and others in their efforts to stress the importance of early

screening and detection of Chronic Kidney Disease. The resolution lists important legislative findings, including the facts that, progressive loss of kidney function leads to kidney failure, the need for dialysis or transplantation, and possibly death from associated cardiovascular disease., and that more than 42,000 people in California are currently kept alive through dialysis or transplantation; and that number is expected to double within the next 10 years. This resolution was strongly supported by CDC and the National Kidney Foundation of Northern California and Northern Nevada. We are proud to report that the measure was adopted by the Assembly.

8. SB 1474 (Alquist) – Dialysis Clinics

This bill would have imposed many new inspection standards and reporting requirements on dialysis clinics. The bill would have imposed a costly new inspection program operated by the Department of Public Health and would have required dialysis clinics to foot the bill for the costs. We strongly opposed this bill when it was introduced. We were happy to report that we were successful in convincing Senator Alquist to not move the bill forward. This was possible due to all of the feedback her office received from CDC members. The defeat of SB 1474 is just one more example of how important it is for the dialysis community to stay unified in our advocacy efforts on behalf of the entire dialysis community.

9. SB 1738 (Steinberg) – Frequent Users of Health Care Pilot Program

SB 1738 requires the Department of Health Care Services to establish a three-year pilot program to provide Medi-Cal and supplemental services to individuals defined as frequent users of health care. The bill directs the Department of Health Care Services to fund six pilot programs and establishes that the services will be provided to reduce the participating individual's use of emergency room services. SB 1738 is the first step in helping patients suffering from chronic disease gain better access to care. This bill will provide services to Medi-Cal beneficiaries who are frequent users of health care and will only be implemented if federal financial participation is approved. Frequent users often have complex health care needs and require a disproportionate level of medical assistance. SB 1738 is contingent upon federal approval and matching funds. We carefully watched this bill as it moved through the legislative process. SB 1738 was passed by the legislature and sent to the Governor's desk. The Governor vetoed the bill with the following message, "Unfortunately, I cannot support this bill in its current form with our ongoing fiscal challenges. Instead, I would ask the author and stakeholders to work with my Administration to identify strategies to ensure these beneficiaries receive the right care, at the right time, in the right setting. This solution should be a statewide solution that focuses on primary care and comprehensive coordinated care management."

2009-2010 Regular Session

The 2008 legislative year was the final year of the 2008-2009 regular legislative session. The State Legislature will return to Sacramento on Monday, December 1, 2008 to begin the 2009-2010 regular legislative session. At that time, all new members who were successful in the November election will be sworn into office. Most of December will be spent organizing the Legislature and introducing legislation which will be considered in January.