



Legislative Report

Michael Arnold delivered the legislative report.

SB 912, the bill repealing the 5% Medi-Cal rate cut, has passed both houses of the State Legislature and is now on the Governor's desk for signature. The rate reduction took effect on January 1 of this year and, assuming the Governor signs *SB 912*, it will not take effect for 14 days following his signature. Therefore, the rate reduction of 5% will be in effect from January 1 through 14 days following signature.

Michael distributed a copy of the current legislative status report. He stated that February 24 is the deadline for introduction of new/amended bills. There will be a lot of activity around these new and amended bills and Michael will keep the membership up-to-date.

SB 1254 A spot bill regarding the alternative work week has been put in place. It will amend section 511 of the Labor Code. Senator Ackerman, the bill's sponsor, will probably be making a change that will be in our best interest, according to Michael. Several attendees encouraged Michael to work toward allowing a 12-hour day at the same rate under the alternative work week. Currently, we are restricted to a 10-hour same day rate under the rules of the alternative work week while hospitals, with whom we compete for staff, are allowed a 12-hour day. Rosemary Fox stated that she will connect Michael with an attorney who has worked on this issue. Michael will report back to the Board on his progress.

Budget. The CDC Board directed Michael Arnold to testify before the Budget Subcommittee in support of the Governor's budget proposal to increase the numbers of positions in the Licensing & Certification section of the state Department of Health Services. Michael reported that by and large the budget situation is much improved. The structural deficit of \$4 Billion continues, but if the economy continues to improve, we should "grow out" of that.

Legislative Day. A Sacramento legislative day has been planned for Wednesday, March 22nd. Michael encouraged attendance at the event and also reminded those at the meeting that they should schedule appointments with their legislators in advance. Peter Crooks suggested that perhaps a day could be scheduled in the future for legislators or their staff to visit dialysis facility(s) local to the capitol. He suggested that the date might be set with local facilities in advance so that legislators could be invited to visit at the time of the legislative day.

Regulatory Report

The regulatory report was delivered jointly by Karen Dyer and Michael Arnold.

Licensing & Certification. Michael stated that we have met with the State Licensing & Certification (DHS) people regarding delays in visits and they have stated that they cannot do anything to remedy the situation. While Michael used to experience some success in expediting surveys, over the past six months the DHS has not been cooperative and, in fact, is now sending out written delay letters. CDC will support the Governor's proposed budget for additional licensing and certification funding.

Dialysis in Skilled Nursing Facilities (SNF). Jennifer Nazarko with DaVita has been providing dialysis services under agreements with SNF in Northern California utilizing a mobile acute program model. She has been advised by DHS to stop this practice as a result of not having a license to provide those services. At the last CDC meeting, the Board agreed to support the issue of dialyzing fragile patients residing in SNF who cannot be transported. Michael reported that he had received a telephone call the morning of the meeting from Scott Vivona with the DHS stating that the mobile acute model for these patients is occurring "all over the state" and he feels the need to put a stop to it. Michael advised Mr. Vivona that

this issue should be approached with great caution as the patients currently receiving these services are not transportable and will die or have to be re-admitted to acute care if the dialysis is discontinued. Michael also told the Board that the DHS has no specific licensing for dialysis as is required under state law since they simply adopted the federal regulations. Michael stated that this amounts to underground regulations. He did state that he feels that the state will probably intervene in the SNF dialysis area. Larry Day has also approached the Board and requested support for his new model, which is a crossover model and would also serve the SNF population.

CDC does currently have a "spot bill" on dialysis that has been drafted. However, as mentioned earlier, the final legislation has to be put forth by the 24th of February, which is one week away. The legislators are limited in the number of bills they are allowed to sponsor, and Michael feels that unless CDC had a firm handle on what it would like to put forth, it would be unwise to ask a legislator to waste one of their bills.

CMS is actively working on the issue of dialysis in SNF, and in fact, a Technical Expert Panel (TEP) met last week with CMS to discuss this. The minutes of that meeting were not available at the time of the Board Meeting, but a summary was presented by Larry Day, and Mike Paget had a copy of the slides from the TEP meeting.

There are clearly two different issues, the first is the extremely fragile patient who cannot be transported to an outpatient facility and how that patient population will be served. The second deals with more routine dialysis services for the SNF population. Since there will be CMS regulations around the second group, some of the Board felt that it would be appropriate to wait for those regulations so that CDC doesn't spend resources developing something that might not meet the new federal regulations when they are available, presumably in 2007. The Board was unable to adopt a legislative resolution in the one-week time frame remaining so Peter Crooks made a motion that CDC continue to study the options and hopefully come to a resolution. He also recommended that Mr. Day and Ms. Nazarko work together to attempt to come up with one approach that would meet both of their needs and put that in writing to present to the Board in advance of the next meeting.

NRAA Report

Cindy LaMunyon stated that NRAA is working with Kidney Care Partners (KCP) and the Renal Leadership Council for clarification of the EPO HMA. Cindy stated that the 25% reduction in EPO that will be automatically withheld under the HMA if the provider does not do it on their own, will not always work. It has to be an exact 25% of the total so if the adjustment is made by the facility a few treatments into the month, the reduction will not be equal to 25%. There is also concern that the fiscal intermediaries will not all implement the HMA in the same way. NRAA hopes to have clarification of the implementation issues soon. Peter Crooks requested the following. A letter will be written perhaps by Tom Paukert in support of the NRAA position and Dr. Crooks will sign it for CDC. Secondly, he requested that a line item be added to each CDC meeting agenda with regard to a KCP report. Lastly, he requested that Sue Vogel, who represents CDC with KCP at this time, prepare a report to be sent to the Board summarizing current KCP activities.

Licensing & Certification issues. NRAA met with CMS in January concerning licensing and certification delays in California. CMS did not express any interest in action on the issue but suggested that they might meet with Mike Paget or Peter Crooks concerning working with the state DHS on this issue.

Medicare/Medi-Cal Report

Cindy LaMunyon reported that the composite rate change of 1.6% was signed into law on 2-8-2006. A confidential memo had been issued to the fiscal intermediaries to hold ESRD claims until the law was signed. On 2-13-2006 the pricer went out to the fiscal intermediaries so that claims can be paid. Blue Cross of Georgia began paying claims on February 16, 2006. Cindy stated that she expects

Medicare cash to be in by the end of February. The drug add-on adjustment for 2006 was changed from 14.7% to 14.5%. Therefore, the income from drugs decreased and will off set the 1.6% composite rate increase.

EPO and Aranesp J-codes have been a problem at United Government Services. The customer service representatives have been telling providers that EPO claims will not be paid until April when the new HMA becomes effective. Dr. Art Lurvey has assured Cindy that the appropriate edits are in place and that there will be no delay for claims filed after the January 1 code change. Cindy said the community should expect the normal processing cycle and if any provider experiences anything different to please contact her.

Medi-Cal

Effective February 1, 2006 Medi-Cal has the ESRD code 585.6 in the EPO and Aranesp claims process. They are also requiring that "diagnosis of ESRD" be written into the remarks field. Sheryl Paukert has developed a documentation process that seems to be working especially well and which she is willing to share.



Peter Crooks reported that the Annual Meeting is scheduled for April 27-29, 2006 at the Wyndham Hotel in Palm Springs. He stated that this will be a joint meeting with the NRAA for their Annual Spring Meeting. Copies of programs are available on our web site at: [http://www.caldialysis.org/Annual Meeting.htm](http://www.caldialysis.org/Annual_Meeting.htm).

The registration has been set up so that a reduction in fees for the meeting based on membership is extended from one organization to the other. For example, if one is a CDC member, they will receive a member discount for the NRAA meeting as well. As a result of the joint effort, CDC will be able to accept credit cards for registration for our meeting this year.



May 19, 2006 ~ Oakland

For more information and a registration form, please visit our web site at:
http://www.caldialysis.org/next_meeting.htm