



# CDC Report

Board Meeting ~ Oakland

August 2007

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Below is a report from the California Dialysis Council's Board Meeting held August 17, 2007 in Oakland, California.

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Michael Arnold reported that the hot topic of the moment is the new California budget (or the lack thereof). Michael stated that unfortunately there does not seem to be a good exit strategy for the budget deadlock in Sacramento. The basic problem is that both sides have their point. The Assembly approved a \$103 billion budget and went home. The Democrats are saying that we have enough money to cover this scope budget. The Republicans are saying that the balance is due to the \$4 billion deficit reduction bill from a few years ago and there will be a net \$5 billion deficit next year. Meanwhile the Governor is promising to veto enough to balance the budget for this next year. Stress exists between the Governor and the conservative Republican bloc that controls the 14 Senate Republicans and is causing distrust. Michael is not willing to speculate on the date that a budget will be enacted.

*Licensure fee.* Provisions for licensure fees for all provider types were included in the Assembly budget bill and Michael does not believe these will be changed in the final. A list of the various fees was distributed to those attending. Chronic Dialysis Clinics will incur a fee per facility of \$3246.45. (A reduction of \$277.82 from the original proposed amount.) The new fee rate will become effective within 14 days of the enactment of the budget. *SB 83* is the budget trailer on health and the implementation strategy for the revised provider fees is located in this trailer. The new fees will be posted on the Department of Public Health (DPH) web site within 14 days of budget enactment. The Legislative Status Report was distributed to those in attendance.

*AB 237.* CDC supported this bill that would have increased

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the budget shortfall insurance for the Medi-Cal program. The bill would have increased the amount of General Fund monies from \$1 billion to \$2 billion that would cover shortfalls resulting from a delayed budget. Since Medi-Cal is federally supported as well, the actual amount would have been double. A consultant informed the Assembly that the additional monies were unnecessary since the fund has matched the need in the past. However, due to inflation, the fund did not last as it has in the past and Medi-Cal has run out of operating funds in the face of this year's budget deadlock.

## • REGULATORY REPORT

Michael Arnold reported on the dialysis in Skilled Nursing Facility (SNF) issue.

AB 214 is our bill for providing dialysis in SNF. Assembly member Fuentes from Los Angeles agreed to introduce the bill. However, prior to its introduction, the DPH called a meeting of health care provider groups to discuss the issue. DPH offered SNFs the opportunity to submit an "Optional Service" application for dialysis in SNF. Since the SNF community is familiar with Optional Service applications and the other provider groups were comfortable with this approach, the DPH issued a draft "All Facilities Letter (AFL)." The AFL includes both Hemodialysis and peritoneal dialysis, applies only to SNF residents (no outsiders may be dialyzed in the SNF), covers applicable provisions of the ESRD standards, and current dialysis services would be allowed to continue providing the SNF submits an application for Optional Services by October 15, 2007. These services would be for the benefit of managed care or private insurance which would be willing to pay a premium fee for the service so that they can move patients out of expensive acute care beds; and since Medicare and Medi-Cal have fixed reimbursement the AFL will probably not have an effect on these patients. There was significant discussion among Board members regarding whether services provided in the SNF will be out of control and offer potential safety concerns, or if the DPH will survey based upon the current federal ESRD guidelines.

One issue of concern was that facilities currently offering dialysis might be the only facilities able to obtain the Optional Service. This concern arose as a result of unclear terminology in the draft AFL letter. Michael Arnold agreed to obtain clarification on this issue and get back to the Board.

Finally, since the AFL letter might have already been distributed by the DPH, the Board agreed to watch and see how the process works. If necessary, we will attempt to introduce our bill again next year. In the meanwhile, it was suggested by Peter Crooks that CDC evaluate how other states are handling dialysis in SNF.

## • NRAA REPORT

Cindy LaMunyon reported that NRAA Career Link has job posting information on the web site. The NRAA Annual Fall Conference is in Huntington Beach on September 26-28. Board elections are in process at this time and the results will be announced on September 7.

- **KIDNEY CARE PARTNERS REPORT (KCP)**

Marc Chow reported on the CHAMP Act 2007 (House of Representatives) and distributed a summary of its pieces that affect dialysis. The House bill passed with a \$50 billion expansion over five years. The Senate passed the children's health insurance program (CHIP) but the bill does not include Medicare. The two versions need to come together by means of a conference committee. President Bush has vowed to veto.

Bundling for ESRD is included in the CHAMP language and effective 2010. One of the serious issues not yet addressed is the need for an update mechanism for the composite rate. Copies of the KCP, NRAA, and Kidney Care Council responses to the CHAMP act were also distributed. Tom Paukert stressed that he feels a priority issue is the market basket update. Marc responded that virtually all provider organizations are concerned that it was omitted and will work together for the next two years to have it included.

Marc reported that section 635 language remains in the bill and KCP as well as the Large Dialysis Organizations (LDO's) oppose this language. Section 635 would adjust the reimbursement for EPO for LDOs (defined as 300 or more facilities) to the lower of \$8.75/ 1,000 units or 102% of ASP. Tom Paukert stated that under a 2-tier program, the LDOs still make money and it would help offset small provider losses. He stated that all providers should be able to purchase the drug at the same price. Marc Chow responded that the EPO reimbursement in question will only be effective for the two years between 2008 and 2010 when the bundled rate becomes effective. The fear is that the lower LDO rate will be used as the basis for EPO reimbursement under the bundle. One additional issue of contention is that any monies saved are being added back into the CHIP program and not being maintained in the ESRD program.

One of the other issues in CHAMP is the new federal requirement for certification of Patient Care Technicians (PCTs). Michael Arnold stated that he feels we should carefully review the federal language to ensure that states that already have certification are included. That is, we would not wish California certified PCTs to have to get an additional certification. Michael Arnold and Marc will work together on this issue and report back to the Board.

Email: [mail@caldialysis.org](mailto:mail@caldialysis.org)

Website:

<http://www.caldialysis.org>

Tel: 928-717-1156

- **NERWORK REPORT**

Network #17 continues to spend a good deal of time and energy working on the Fistula First Breakthrough

Initiative. Since the beginning of this Statement of Work (July 26, 2006) Network #17 has realized an increase of 4.3 percentage points from 47.6% to 51.9% as of June 30, 2007. Recent activities have included:

- The first edition of a Fistula First Newsletter
- Facility-specific quarterly reports
- Network Fistula First Summary Reports
- Facility-specific Quality Improvement Activities
- Identification (and recognition) of facilities who have exceeded the Network's expectation for AVF rates
- Sharing of Best Practice activities
- Additional Fistula First resources on the Network website ([www.esrdnet17.org](http://www.esrdnet17.org))
- Organization of a Fistula First Subcommittee of the Network Medical Review Board to assist with data review and project planning and review

The Network has provided every facility with an Albumin Resource packet containing information for patients and providers. One of the resources contained in the packet was a protein magnet for each patient that provides not only text, but also a picture image of protein rich foods.

The Network 2006 Annual Report has been approved by CMS and is now posted to the Network #17 website. This Annual Report contains not only the narrative describing the activities completed by the Network from the award of the contract on July 26, 2006; it also includes the data tables for the entirety of 2006. Each facility has received notification that the Annual Report is available on the website.

A reminder has been sent to each transplant facility in Network #17 regarding the new transplant regulations and the deadline to apply for certification under these new regulations. Application must be made by December 26, 2007.

The Network Medical Review Board met in July and plans are underway for a Network-specific quality improvement activity in the area of patient safety. As planning for this activity progresses, the Network will share this information with the CDC during future updates.

Network #17 is happy to announce that we have hired a Director of Quality Improvement. Noel De Ocampo, RN, MSN will begin with Western Pacific Renal Network on August 27, 2007.

This summer, Network #17 has begun working with interested parties within the Network to organize a Chronic Kidney Disease Coalition. The primary focus will be early detection and early referral for CKD patients. Two

workgroups have been formed, the first to look at eGFR reporting and the second to look at CKD clinic management.

- **MEDICARE / MED-CAL REPORT**

Cindy LaMunyon reported.

*Medicare*

Last week National Government Services (NGS) suspended EPO and Aranesp claims in anticipation of automated edit. Claims are now being paid again and NGS is looking to assure that each claim contains a HCPCS and diagnostic code for EPO and Aranesp.

The EPO monitoring policy (EMP) from 2006 will be modified in January 2008. EPO line item billing will also be effective in January 2008. A modifier will be required for each line billing for EPO (Hemodialysis and PD). PD programs will bill Medicare according to the plan of care (medical order) and any additional amounts dispensed will require an additional modifier. There will be a 50% reduction in reimbursement for any patient with a hemoglobin times 3 of 39% or greater on the third consecutive month. The medically unbelievable edit will be reduced to 400,000 units. The route of administration has been voluntary on the billing until now and Cindy does not believe providers have voluntarily submitted that information. Cindy suspects that this reporting (JA and JB) for IV versus subcutaneous will also become mandatory in January of 2008. The KCP ESA statement will be distributed to members and Cindy will distribute appropriate Medicare billing information to CDC members. Trailblazer fiscal intermediary was awarded the MAC contract for Colorado, Texas, New Mexico and Oklahoma. The California MAC will be awarded in September of this year.

*Medi-Cal*

Payments are on hold until budget deadlock is resolved. Medi-Cal continues to use local codes instead of the National codes as required under HIPAA. Cindy would like for the CDC to draft a letter to the Department of Health voicing our concern about the risk for the provider community using this 30-year old system. Kelly Wright stated that the Medi-Cal medical directors over the years have supported any input we might have that would cause the program to be updated.

- **PROGRAM REPORT**

Mary Brattich reported that planning for the 2008 Annual Meeting will begin in September. One topic of interest is the "green" (conservation) efforts in dialysis. Our meeting will immediately follow the NRAA Annual Spring Meeting again this year (as in 2006) and we hope that will increase attendance for both meetings.

- **OTHER BUSINESS**

Committee assignments were distributed. Cindy LaMunyon stated that a lot of energy went into fair distribution of the workload but that she would entertain comments on the assignments.

- **NEXT OPEN BOARD MEETING**

September 21, 2007 ~ Oakland

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