



CDC Report

Board Meeting ~ Los Angeles

June 2009

In this issue

[LEGISLATIVE REPORT](#)

[REGULATORY REPORT](#)

[FEDERAL ISSUES REPORT](#)

[PATIENT ORGANIZATIONS
REPORT](#)

[NETWORK REPORT](#)

[MEDICARE REPORT](#)

[PROGRAM REPORT](#)

[COMMUNICATIONS
REPORT](#)

[OTHER BUSINESS](#)

[NEXT BOARD MEETING](#)

Below is a brief report from the California Dialysis Council's Board Meeting held June 19, 2009 in Los Angeles, California. For **CURRENT NEWS** regarding the ESRD community, please visit our web site news page at: <http://www.californiadialysis.org/news.html>

• LEGISLATIVE REPORT

Mike Arnold delivered the legislative report.

State Budget: Mike gave those present an update on the current California fiscal crisis. There is currently about a \$25B budget deficit, which is one quarter of the \$100B general fund. This means that it will be very difficult to address that deficit by cuts alone. Many legislators, particularly Republicans, believe that the public has spoken during the elections in May and they are not willing to accept any additional taxes, so it is very clear that there will not be any Republican votes for increases in taxes. Mike explained how the current process is working in Sacramento with a ten (10) person budget conference committee to hear all of the issues. The Governor's May Revised Budget proposal contained \$23B in cuts, including one for the elimination of the Medi-Cal State Only Dialysis Program. Previously distributed "CDC News Updates" on this issue can be found on our web site at:

<http://www.californiadialysis.org/news.html>. This proposal was rejected. Proposals were made to impose a 9.9 % severance tax on all petrochemical companies that draw oil from California and raise the tax on cigarettes from \$0.87 to \$2.67 per pack. This was estimated to raise approximately \$2.0B. In addition vehicle registration fees would be raised by \$15.00, these revenues being allocated to state parks, and \$1.5B in street and road funds would be taken from

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local governments and \$350M per year for three years from redevelopment agencies to be redirected to schools. The governor indicated that he will not sign a budget with these tax increases. The matter is now of great urgency as the State Controller and Treasurer have both indicated that the State will absolutely run out of money sometime in July and the credit rating agencies have indicated that will again down grade California. This would mean that the State would issue registered warrants to pay entities including Medi-Cal providers such as dialysis facilities, etc. Two entities will continue to be paid: they are schools (as the Constitution requires them to be paid) and bond holders. The courts have ordered that the State cannot pay state employees with warrants, so they would be the third in line for payment. All this places immense pressure on the Governor and Legislature to put together a budget.

There is a proposal from the Governor to spend more money by allowing the Department of Healthcare Services to hire more Fraud and Abuse investigators to curb these costs. Several conversations ensued on current examples of such investigations. Karen Dyer gave an update from the Office of the Inspector General (OIG) for Health and Human Services stating for the last three years they have had dialysis transportation on their work plan. Last week one of her facilities received requests for full documentation on two patients that had been receiving such services. The target of these investigations is focused on the ambulance companies and possibly the physicians that write the orders. Several examples of these practices were sited and the take away was for all to be very vigilant and only work with reputable organizations.

SJR 13: A Senate Joint Resolution sends a message from the State Legislature to Congress. As requested by the Board, SJR13 was sponsored by CDC and urges the Centers for Medicare & Medicaid Services (CMS) to adopt regulations, and the Congress and the President of the United States to enact legislation, to improve the system and speed up the process for timely licensure and certification surveys of new dialysis clinics. A copy of the resolution may be found at:

www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0001-0050/sjr_13_bill_20090602_introduced.pdf

This is a follow up to meetings held with CMS Region IX and CDC where it was made clear that this was a federal funding issue. Mike Arnold requested that if any organization has a new facility that they are opening, they should ensure that they are in close communications with the folks at the Department of Public Health and also to let him know the status of any such facilities.

SB112 Hemodialysis Training Act: This is moving through the legislative process. The bill includes language that defines a standardized test, which we believe will solve the problem of the department having to adopt regulations to define what a standardized test is. The bill also includes language that states no new regulations are necessary to enact the revision of the act. However, the department still has some minor issues with the language and feels that they may still need regulations. Mike will continue to work on refining the language to satisfy the department.

SB221 Home Dialysis Agency Bill: This is moving through the legislative process without any issues.

The Legislative Status Report is available on the CDC website at:

www.californiadialysis.org/legislative_status.html.

Accessing in this manner allows you to link directly to the whole bill.

• REGULATORY REPORT

Karen Dyer discussed the California Privacy law changes that became effective January 1, 2009. These bills create a new office in the State Department of Public Health ~ The California Office of Health Information Integrity (Cal-OHII). The new regulations, among other things require healthcare facilities to report a breach in protected health information. Failure to do so can result in fines of \$100 per day. A side by side comparison of these bills along with links to the actual bills can be found on our web site at:

www.californiadialysis.org/Docs/Regs/CA_Privacy_Laws.pdf.

Karen also discussed the new Medicare Secondary Payer Mandatory Reporting that goes into effect on July 1, 2009. Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) (P.L. 110- 173), adds new mandatory reporting requirements for group health plan (GHP) arrangements and for liability insurance (including self-insurance), no-fault insurance, and workers' compensation. See 42 U.S.C. 1395y(b)(7) & (8). More information can be found on the CMS web site at: <http://www.cms.hhs.gov/mandatoryinsrep/>

CfC Patient Care Technician Testing: Debra Punch first of all acknowledged to work of the committee: Marline DeVera, Rebecca Faix, Lynn Ann Lohner, Jill Stringfield, and Richard Van Der Plas and gave a status report on the three tests being developed all of which have 140 questions. Each question has a standard of four answers. The committee is now in the process of performing the final editing and validity testing before the tests can be sent to UCLA for reliability and

Email: mail@californiadialysis.org

Web site:

<http://www.californiadialysis.org>

Tel: 928-717-1156

standardization testing, etc.

• FEDERAL ISSUES REPORT

Mike Paget reported on the outcome of the Kidney Care Partners (KCP) Board Meeting with regard to their 2009 Legislative Agenda and whether or not to include a provision to eliminate the restriction on Medicare beneficiaries with kidney failure from enrolling in Medicare Advantage plans if they choose to do so. At the operations committee level it was recommended unanimously to take the issue off the table for 2009.

MIPPA Implementation (Bundling): Mike stated that he, Lori Hartwell, and a group of RSN patients met with CMS at the end of May when they indicated that the Notice of Proposed Rule Making (NPRM) should appear in the Federal Register shortly, even as soon as June. A subsequent email from Lawrence Wilson at CMS indicated July was more likely. Either way, CDC and the ESRD community must be prepared to respond to this NPRM within the anticipated 60 day time period. Requests have been made of CMS to extend the response period from 60 days to 90 or even 120 days.

Marc Chow reported on the recent GAO Report on home dialysis which was sent to all members as a News Update on May 27th and can be found on the CDC web site at: http://www.californiadialysis.org/Docs/News/2009/Email_5-27-09.pdf. It would appear that the data reported in this report is suspect and statements attributed to CMS were inaccurate.

Healthcare Reform: Marc gave an update on the current status on the three bills, two in the senate and one in the house working their way through congress. It appears that they would like to have a "mark up" on these bills by early July, and something on the floor before the August recess, but clearly the situation is very fluid. KCP is working on the inclusion of their legislative agenda into these bills. One issue of concern for ESRD provided is the plan for Public Healthcare Plans to have an "opt in" to Medicare for 55 to 64 year olds. This would potential dramatically alter a facilities' payer case mix, resulting in lower reimbursement for the providers.

KCP is also proposing funding healthcare reform through an extension of the Medicare Secondary Payer (MSP) provision. This has often been considered as a "pay for" even back in the Bush Administration.

Marc reported that Florida is now providing Medigap insurance to ESRD patients under 65, which is the first state to be added to the list in over five year. Marc believes that this should be a project for CDC next year

to get Medigap coverage for California ESRD patients under 65. Lori Hartwell stated that she has been working with her local representative, Adam Schiff (D-29th), to introduce legislation at a federal level to require all states to provide Medigap coverage for ESRD Patients under 65. This would save doing this on a state by state basis. Lori also asked for legislation changing the Medicaid (Medi-Cal in California) ESRD benefit from optional to mandatory. This would mean that states would have to pay for dialysis treatments, etc.

KCP launches PEAK campaign: On June 8, 2009 Kidney Care Partners announced the launch of PEAK - **P**erformance **E**xcellence and **A**ccountability in **K**idney Care a voluntary quality improvement campaign pledging to reduce mortality among first-year dialysis patients - those at the greatest risk - by 20 percent by the end of 2012. The campaign has a new dedicated web site at www.kidneycarequality.org and that actual news release can be found on the KCP web site at: www.kidneycarepartners.org/files/PEAK_launch_release_06_08.doc.

• PATIENT ORGANIZATIONS REPORT

Lori Hartwell reported that AKF, DPC and NKF all met for dinner before the June KCP Board meeting in Washington, D.C. We discussed patients enrolling in Medicare Advantage, Medicare Secondary Payer and unifying the patient message. Lori suggested before that happens we need to ask our patient leaders what they want and schedule a meeting with all of them to meet consensus so that the patients feel they are involved in making decisions. RSN patients were advocating to Congress on The Lifetime Immunosuppressant bill and the need for Medigap to be a federally mandated for ESRD patients under 65. Patient groups are looking at ways to support the KCP's PEAK Campaign. Lori will interview Dr. Ed Jones on the PEAK Campaign for an upcoming episode of KidneyTalk.

• NETWORK REPORT

Harriet Edwards reported that Network 18's contract with CMS was renewed for another eighteen months. There have been some new changes in personnel at the Network including a new data manager and patient services coordinator along with staff in data entry. The Network has been requested by CMS to recruit five LDOs and five independents (total of ten) for the next implementation phase of CROWNWeb. The five LDOs will submit data via batch, while the five independents will manually enter data into the web based system. All Networks will be involved in this next phase as a posed to only the current eight. This next phase should start sometime in August, but this has not been confirmed.

- **MEDICARE REPORT**

Dr. Carol DiRaimondo reported that the Palmetto EPO policy has yet to be officially published.

- **PROGRAM REPORT**

The dates for the 2010 Annual Educational Conference were confirmed as April 22-24, 2010 at the Palm Spring Hotel Zoso. The Planning Committee will begin calls in September.

Mike is working with the committee on dates and sites for the 2011 and 2012 conferences.

- **COMMUNICATIONS REPORT**

Mike Paget reviewed CDC new web site (www.californiadialysis.org/) and requested more members to join the committee. Pamela Saffire, Marc Chow, Lori Hartwell and Sue Vogel were added to the committee. The committee will look at options for better ways to communicate with the membership and community at large.

- **OTHER BUSINESS**

Future Board Meeting materials will be emailed to registered participants the Wednesday before the meeting. Only the agenda will be provided on site. Options exist to print and bring paper copies or bring a personal computer and review the documents during the meeting. This will cut down on the copies, many of which are just left on the table after the meeting. This change will proceed as a trial.

- **NEXT BOARD MEETING**

August 21, 2009 ~ Oakland

For more information, on-line registration and hard copy registration forms, please visit our web site at:

www.californiadialysis.org/next_board_meeting.html

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