

California Dialysis Council

LEGISLATIVE HIGHLIGHTS 2004 LEGISLATIVE YEAR

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These “Legislative Highlights” consist of both a general overview highlighting some of the key issues addressed during the 2004 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 2004. As you will note, the status report also 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, 2005, 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 During 2004

1. 2004-2005 State Budget

The new Governor, Republican Arnold Schwarzenegger, presented his proposed budget on January 9, 2004. This document outlined an ongoing structural imbalance between projected spending and revenues estimated to be roughly \$15 billion. The Governor then spent the next five months attempting to bring that amount down. The cornerstone of Governor Schwarzenegger’s budget plan was the Economic Recovery Bond Act. The Governor cut a deal with Democratic leadership and placed a \$15 billion deficit financing bond on the March 2004 Ballot (Proposition 57). On

March 2, the California voting population passed Proposition 57. Even with the passage of the bond, the budget was still out of balance. Governor Schwarzenegger set aside \$3 billion from the bond to help balance the coming year's spending plan. The bond had a lower annual debt service compared to similar borrowing which saved another \$1.3 billion. This brought the structural deficit down to below \$12 billion. Meanwhile, the Governor struck an early deal with education to get support for a \$2 billion reduction in the growth of school spending next year. He has also negotiated separate deals with top officials from state courts and universities. In addition, the Governor reached a deal with local governments to save the state \$1.3 billion during the upcoming fiscal year.

On May 13, the Governor released the May Revision to his January budget. The May Revision outlined the agreements the Administration had reached with representatives from the different groups. Everyone was fairly optimistic that the budget would be passed on time. As summer dragged on, it became apparent that the budget would again be a long drawn out fight. Ultimately, the State Budget was passed by the Legislature on July 28. The Governor signed the budget on July 31, 2004.

2. Medi-Cal Reimbursement Issues

Medi-Cal Provider Rates – During the 2003-2004 budget debate, the Legislature and the Governor approved a rate cut of 5 percent for Medi-Cal providers. On behalf of the California Dialysis Council we joined with over 50 other groups to form a coalition entitled Californians United for Quality Care (CUQH). This coalition met several times to develop strategy and discuss options to pursue in opposition to the provider rate cuts. Ultimately, a CMA led sub-group of the CUQH filed a lawsuit seeking to overturn this rate cut decision. The courts issued a stay and the 5 percent cut was not implemented by DHS.

In January of 2004, Governor Arnold Schwarzenegger released his proposed budget for the 2004-2005 fiscal year. **This proposal included an additional 10 percent rate cut for Medi-Cal providers.** We immediately began working hard to oppose the 10 percent cut. We testified in budget subcommittees, met with members of the Legislature, and explained that Medi-Cal cuts will have far-reaching implications beyond the obvious impact on the operational revenue of dialysis units and transportation companies -- that would reduce access to treatment. We emphasized that ESRD reimbursement for Medi-Cal is already below the cost of treatment.

We are very happy to report that the final 2004-2005 state budget adopted by the Legislature and signed by Governor Schwarzenegger did not include any rate cuts for Medi-Cal providers. The stay still prevents DSH from enacting the 5 percent rate cut adopted in 2003 and the 10 percent rate cut proposed for 2004 was stopped! This was a huge win during such a difficult budget year. (Note: The state is appealing the stay of the 5 percent cut and the appeal is set to be considered by the courts during December.)

Medi-Cal Redesign – In May, the Governor released the May Revision to his January budget. The Administration originally intended to release at the same time a detailed proposal for changing the Medi-Cal Program. Throughout the spring, state officials held a series of public workshops to seek feedback on various options. The proposal was met with great controversy. Democratic lawmakers had promised a huge fight on this issue. The subject threatened to hold up the entire budget debate. Thus, the Administration decided to put the Medi-Cal redesign plan on hold and separate it from

the budget discussion. The proposal is now being folded into the California Performance Review. It is anticipated that the redesign issue will be further worked on during the fall. When the Governor releases his 2005-2006 Budget in January, it will most likely contain a plan for the Medi-Cal redesign.

3. Workers' Compensation Reform

During Governor Arnold Schwarzenegger's State of the State speech, he announced that he expected the Legislature to deliver workers' compensation reform to his desk by March 1. If they did not meet this challenge, he stated that he would pursue a ballot proposal for the November 2004 State Ballot. After much grumbling, the Assembly and Senate began holding special hearings on workers' compensation reform. The hearings were held as part of the 4th Extraordinary Session relating to workers' compensation. Governor Schwarzenegger and the legislative leadership began meeting and discussing reform. The Governor continued his push for legislation by March 1. All other business seemed to stop as everyone focused on workers' compensation. The effort paid off in that on April 15 a conference committee on workers' compensation reform passed SB 899 by Senator Poochigian. The bill was then passed by the Senate and Assembly Floors. On April 19, Governor Schwarzenegger signed SB 899 into law as Chapter 34, Statutes of 2004. Governor Schwarzenegger claimed a huge political victory and everyone refocused on the budget.

4. ACR 250 (Montanez) – California Chronic Kidney Disease Education Week

On behalf of the California Dialysis Council, we were successful in having an Assembly Concurrent Resolution introduced. We worked with Assembly Member Cindy Montanez to have the resolution introduced on the floor of the California State Assembly. The resolution urges all Californians to familiarize themselves with the causes of chronic kidney disease and the importance of intervention to promote sustained health and a better quality of life. ACR 250 outlines several key statistics relative to chronic kidney disease. The goal of introducing this resolution was to help raise the awareness level of legislators in regard to kidney disease. Having this resolution active during the legislative session helped highlight this issue in Sacramento.

5. AB 3029 (Matthews) – Medi-Cal Provider Reimbursement

The April 1 version of this bill would have required a provider under the Medi-Cal Program to submit a recipient's Medi-Cal beneficiary number and issue a date when submitting reimbursement requests for Medi-Cal services. On behalf of the California Dialysis Council, we notified the author of our position of Oppose-Unless-Amended. The bill was amended to prohibit a provider under the Medi-Cal program from submitting a reimbursement request to the Medi-Cal program containing the beneficiary's social security number if the Department has issued that beneficiary a Medi-Cal identification card containing a beneficiary number that includes the issuance date. The key to the amendment was that the Medi-Cal beneficiary number includes the issuance date within that number and does not require a separate field on a computer. Once that amendment was adopted and placed into the bill, we were able to change our position to Watch. The bill was passed by the Legislature and sent to the Governor's desk. AB 3029 was signed by Governor Schwarzenegger as Chapter 584, Statutes of 2004.

6. SB 1850 (Machado) – Medi-Cal

SB 1850 was part of a package of bills sponsored by the Attorney General designed to address losses to the Medi-Cal Program associated with fraudulent providers. This bill would have required the Department of Health Services to perform reviews and field audits of health care providers who submit an obsessive number of Medi-Cal out-of-county claims. On behalf of the California Dialysis Council we requested an amendment to exempt dialysis providers. We argued that Medi-Cal patients who are receiving dialysis are not candidates for participation in Medi-Cal fraud. Many dialysis patients must travel long distances to receive dialysis in dialysis clinics. This fact could inappropriately trigger a review for out-of-county claims. The author's office was unable to amend the language for fear that the list of providers who were exempt would become too large and unmanageable. We continued to watch the bill as it moved through the legislative process and highlighted the various problems that the bill triggered. The bill was opposed by the Department of Finance due to the costs involved in implementing the program. Ultimately, SB 1850 was vetoed by the Governor. In his veto message, the Governor referenced the fact that DHS has the ability currently to perform risk assessment and analysis to look for fraud. The message also referenced the budget augmentation approved by the Legislature in fiscal year 2003-04 to provide for an error rate study to be conducted by DHS which would be completed this fall. Due to the high costs of the implementation of the bill, the Governor felt that it was premature until the error rate study is completed.

Conclusion / 2005-2006 Biennial Session

The 2004 legislative year was the final year of the 2003-2004 biannual legislative session. The State Legislature will return to Sacramento on Monday, December 6 to begin the 2005-2006 biennial 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.

We must immediately begin planning for the 2005 legislative year. The State Budget for the 2005-2006 fiscal year appears to be in difficult shape and, therefore, will again be the overriding issue of the session. All bills introduced during 2005 may stay alive for future consideration during 2006. We will carefully monitor the session as it unfolds. We wish to thank you for all the support and assistance you have provided throughout the year.