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## **California Dialysis Council**

### **LEGISLATIVE HIGHLIGHTS 2007 LEGISLATIVE YEAR**

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These “Legislative Highlights” consist of both a general overview highlighting some of the key issues addressed during the 2007 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 2007. 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.

#### **Two-Year Bills**

Since 2007 was the first year of the 2007-2008 biennial session, bills not passed to the Governor’s desk remain alive for consideration during 2008. The rules provide that these measures must pass the house of origin by the end of January 2008 to remain alive for additional consideration. Thus, January will be a busy month. Proponents of two-year bills will be attempting to move them through the house of origin prior to the January deadline.

## **Effective Dates of New Legislation**

The bills that were passed by the Legislature and signed by the Governor will take effect on January 1, 2008, 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 2007**

### **1. 2007-2008 State Budget**

The Legislature finally passed the 2007-2008 state budget on Tuesday, August 21<sup>st</sup>, after a 52-day delay. The Governor then used his “blue pencil” authority to delete over \$700 million, as per a promise made to Senate Republicans who fought for a balanced budget and refused to put up the necessary votes to pass the budget until the agreement was finally reached. Governor Schwarzenegger signed the budget on August 24, 2007. This will be remembered as the State’s 3<sup>rd</sup> longest budget impasse in the past 30 years, eclipsed only by stalemates in 1992 and 2002.

The 2007 Budget Act signed by Governor Schwarzenegger includes the largest reserve of any budget act in the state’s history. The May Revision proposed a total reserve of \$2.2 billion. Due to the shortfall in revenue collections that came to light in June, and in recognition of the state’s continuing structural deficit and other potential threats, the Legislature took actions to reduce spending and increase funds available, thereby increasing the total reserve to an unprecedented \$3.4 billion. The Governor further reduced spending with \$703 million in General Fund vetoes, raising the total reserve to \$4.1 billion.

### **2. Special Legislative Sessions on Water and Health Reform**

At the end of the regular session, the Governor called two concurrent special extraordinary sessions on water and health reform. As we go to print with this report, no legislation has emerged from either session.

### **3. AB 214 (Fuentes) Long-term health care facilities: dialysis services.**

For the past two years the CDC Board has been seeking a solution to the challenge of providing dialysis to residents of long term care facilities. For a time we hoped that CMS would address this issue and provide details on reimbursement for dialysis services rendered in these facilities. Unfortunately, CMS has not yet resolved this issue.

Meanwhile, the Department of Health Services issued an all facilities letter (AFL) to the administrators of skilled nursing facilities (SNF) and distinct part skilled nursing facilities (DP SNF) in which the department advised these facilities to “cease and desist” from providing dialysis services. The AFL noted that there is no licensure program for entities providing dialysis in long term care settings.

In response to these developments, CDC drafted AB 214, a bill to permit dialysis in long term care facilities pursuant to a contract between the long term care facility and a licensed dialysis clinic. The bill also would have permitted the state to adopt additional regulations deemed necessary to protect the health and safety of the patients. With the introduction of AB 214 (we hijacked an existing bill), the department got to work on an alternative solution. Ultimately, the department agreed to issue a new AFL advising involved parties that dialysis would be permitted in long term care settings as an optional service provided by the SNF or DP

SNF. The SNF industry is familiar with the optional services approach and is comfortable with the idea of a new AFL to permit dialysis pursuant to the optional service arrangement.

Thus, CDC has agreed not to proceed forward with AB 214, given that the new AFL is being issued by the state. This situation is one more example of why it is important for the dialysis community to be represented in our State Capitol by the CDC. We will watch this situation closely and if problems develop with the “optional service” approach, we can re-activate AB 214 in January.

#### **4. AB 237 (Strickland) – Budget Deadlock: Payment of Providers**

AB 237, strongly supported by the CDC, would have increased the annual appropriation from the General Fund and the Federal Trust Fund to the Medical Providers Interim Payment (MPIP) Fund. Specifically, this bill: 1) Increases from \$2 billion to \$4 billion the maximum amount that the Controller must transfer annually to the MPIP Fund; and, 2) Specifies that funds in the MPIP, which are continuously appropriated, are appropriated without regard to fiscal years.

Existing law establishes the Medi-Cal program, administered by the Department of Health Care Services (DHCS), creates the MPIP Fund to pay Medi-Cal providers in the event of a budget deadlock or when Medi-Cal incurs a deficiency. Unfortunately, this measure was stopped in the Assembly Appropriations Committee due to concerns over budget issues. The bill is eligible for consideration next year as a two-year bill.

#### **5. AB 74 (Dymally) – Obesity Diabetic Center**

This bill would require the University of California to establish and administer an Institute for the Phenomenon of Obesity and Diabetes Experimental Research (PODER) at the University of California, Irvine, in coordination with the Charles R. Drew University of Medicine and Science. We supported this legislation but, with an annual cost of approximately \$3.8 million it proved to be too costly to the State General Fund and it was placed on the Assembly Appropriation Suspense File.

#### **6. AB 158 (Ma) – Public Health**

AB 158 would have required the California Department of Public Health to establish a Hepatitis B and C Prevention and Management Pilot Program. AB 158 required the Department to establish the program within its Office of Multicultural Health, and to provide specific services as a part of the program. The purpose of the bill was to increase the support of specific nonprofit and academic programs currently conducting Hepatitis B and C activities focused on Asian communities in Los Angeles and the San Francisco Bay areas. We supported this legislation but, with an estimated start-up cost of \$4 million it also proved too costly to the State General Fund and it was placed on the Assembly Appropriation Suspense File.

#### **6. AB 1689 (Lieber) Anatomical Gifts**

Repeals and reenacts the Uniform Anatomical Gift Act (UAGA) into the Revised UAGA to allow anatomical gifts (gifts) to be used for purposes including, but not limited to transplantation, therapy, research, or education. The Revised UAGA regulates gifts and the disposition of donated bodies and body parts.

According to the sponsor, Donate Life California, this bill attempts to create uniformity and make organ donation more readily available and help alleviate the critical organ shortage by providing additional ways for making organ, eye, and tissue donations. This measure was strongly supported by CDC. We are happy to report that AB 1689 passed the Legislature and was sent to the Governor's desk. AB 1689 was signed by the Governor as Chapter 629, Statutes of 2007.

#### **7. ACR 42 (Berryhill) CA Donate Life Registry**

ACR 42 proclaims April 4, 2007, as DMV/Donate Life California Day and the month of April 2007 as DMV/Donate Life California Month, and would encourage all Californians to register with the Donate Life California Registry for the purpose of organ and tissue donation. We supported this measure. Signed by the Governor as Chapter 35, Statutes of 2007.

#### **8. HR 21 (Hernandez) – Chronic Kidney Disease Awareness Day**

This measure established September 12, 2007 as Chronic Kidney Disease Awareness Day. The bill was sponsored by the National Kidney Foundation of Northern California and supported by CDC. As a House Resolution, the bill only needed to be read and adopted by the Assembly. It was adopted by 77-0 vote!

#### **2007-2008 Biennial Session**

The 2007 legislative year was the first year of the 2007-2008 biennial legislative session. The State Legislature will return to Sacramento on Monday, January 7, 2008. During the interim between the 2007 and 2008 legislative years, the Legislature will be holding interim hearings on two-year bill topics for consideration in 2008. We will monitor these hearings and participate as appropriate.

We must immediately begin planning for the 2008 legislative year. The proposed State Budget for the 2008-2009 fiscal year will be released in January. If next year is even half as bad as this past year it will be a very long summer for budget negotiations. Mix into that the fact that it is an election year and it is impossible to predict how things will unfold. The Legislature will be very distracted with the early Presidential primary election in February. In addition, that ballot will contain the proposition for term limit reform which the members of the Legislature want very badly. The primary and general elections will dominate and influence every issue next year. We will carefully monitor the session as it unfolds. We have had a good year and wish to thank you for the support and assistance provided.