

# Michael J. Arnold and Associates, Inc.

Legislative Advocates and Consultants

Phone: (916) 446-2646 ◇ Fax: (916) 446-6095 ◇ 1127 11th Street, Suite 820, Sacramento, CA 95814

---

## California Dialysis Council

### LEGISLATIVE HIGHLIGHTS 2009 LEGISLATIVE YEAR

November 20, 2009

Michael J. Arnold, Legislative Advocate  
Kristian E. Foy, Legal Counsel

These “Legislative Highlights” consist of both a general overview highlighting some of the key issues addressed during this 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 the year. 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 2009 was the first year of the 2009-2010 biennial session, bills not passed to the Governor’s desk remain alive for consideration during 2010. The rules provide that these measures must pass the house of origin by the end of January 2010 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, 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**

### **1. 2009-2010 State Budget**

January 2009 started with the Governor announcing that California's budget was in "a state of crisis". Having jumped to a deficit of \$42 billion from an \$8 billion deficit four months earlier, the Governor pushed the Legislature to make serious cuts. The following month in February 2009, the Legislature passed mid-year adjustments to 2008-2009 budget and adopted the 2009-2010 budget. The new budget was adopted over four months before the constitutional deadline; however, it depended on voters approving tax extensions and money redirection into the general fund as a part of a special election in May. Unfortunately for the budget, the voters did not approve the special propositions. The following months consisted of California issuing IOU's and the Governor implementing state worker furlough days.

Throughout the summer the Legislature debated revisions to the 2009-2010 budget. On July 27, 2009 Gov. Schwarzenegger signed the revision plan. The package, which contained 27 bills, brought the general fund budget down to \$84 billion, compared to a year ago when the general fund budget was more than \$100 million. The Governor opted to use a line-item veto to restore \$656 million to the state reserve fund; funds that he said are necessary during tough times. Included in the Governor's budget cuts were: \$80 million from child welfare programs, \$61 million in county funding to administer Medi-Cal, \$52 million from AIDS prevention, \$50 million to Healthy Families, and \$6.2 million more from state parks. A significant portion of the final budget package relies on local funds to balance the state deficit.

The budget revisions signed into law in July appeared to address the entire \$24 billion deficit the state was facing. However, the slower than predicted economic recovery and the high cost of response to devastating wildfires resulted in more financial problems for the state budget. No one is ruling out the possibility of additional mid-year cuts to the budget in late 2009 or early 2010. Even if the economy begins to recover in 2010, the Governor's Administration is already projecting a deficit of at least \$8 billion for the 2010-2011 budget. Historically, budget deficit predictions grow even larger as we get closer to the upcoming budget year.

### **2. SB 112 (Oropeza) Hemodialysis technicians—CDC Sponsored Bill**

SB 112 is a CDC sponsored bill. The bill revises existing requirements for the certification of hemodialysis technicians under the California Hemodialysis Technician Training Act. This bill will bring California's hemodialysis technician certification program into compliance with the Conditions for Coverage (CfC) of End-Stage Renal Disease facilities adopted by CMS. The CMS CfC guidelines establish conditions that dialysis facilities must meet to be certified as health care providers under the Medicare Program. There are currently more than 5,000 certified hemodialysis technicians in California who must be re-certified to be in compliance with the new CMS CfC guidelines by April 15, 2010. Thus, it was important that California's Hemodialysis Technician Training Act be modified so that our certification program could be granted approval by CMS as a State certification program which meets the requirements of the CfC in terms of the certification of hemodialysis technicians. We worked very closely with the CA Department of Public Health (CDPH) and CMS on the development of the language for the bill. The bill was passed by the Legislature and signed by the Governor as Chapter 559, Statutes of 2009. Importantly, SB 112 was an urgency bill which took effect on October 11, 2009. The CDC developed test has now been approved by the CDPH and has been certified by CMS as being in compliance with the CfC. Thus, hemodialysis technicians may now utilize the CDC exam as an "alternative pathway" to certification. CDC will be offering the examination frequently and in various parts of the State. Please see the CDC website for details: [www.californiadialysis.org](http://www.californiadialysis.org)

### **3. SB 221 (Walters) Home Dialysis—CDC Sponsored Bill**

SB 221 was sponsored by CDC. This bill repeals the old "Home Dialysis Agency Licensure Law." This bill was sponsored by the California Dialysis Council to reduce confusion with respect to dialysis services offered in skilled nursing facilities. We are very happy to report that we were successful in

getting SB 221 passed through the Legislature and sent to the Governor's desk. SB 221 was signed by the Governor as Chapter 39, Statutes of 2009.

#### **4. SJR 13 (Oropeza) New dialysis clinic licensure and certification—CDC Sponsored Bill**

This Senate Joint Resolution, sponsored by CDC, urges the federal Centers for Medicare and Medicaid Services to adopt regulations, and the Congress and President to enact legislation, to improve and speed up the process for timely licensure and certification surveys of new dialysis clinics to provide patients with access to these services as soon as possible, and to eliminate the chilling impact on new clinic construction in California.

#### **5. AB 2 (De La Torre) Individual health care coverage.**

This bill imposes specific requirements and standards on health care service plans licensed by the Department of Managed Health Care (DMHC) and health insurers subject to regulation by the California Department of Insurance (CDI), (collectively carriers) related to the application forms, medical underwriting, and notice and disclosure of rights and responsibilities for individual, non-group health plan contracts, and health insurance policies, including the establishment of an independent external review system related to carrier decisions to cancel or rescind an individual's health care coverage. We carefully watched this bill as it moved through the legislative process and to the Governor's desk. The Governor vetoed AB 2. In his lengthy veto message the Governor stated that he would support a bill that provides strong statutory protections for consumers against inappropriate rescissions by health plans, however, he disliked a provision in the bill that he believes benefits trial lawyers rather than consumers. He also referenced strong consumer protections state departments have successfully implemented over the past two years.

#### **6. AB 657 (Hernandez) Health professions workforce: master plan**

This bill requires the Office of Statewide Health Planning and (OSHPD), in collaboration with the California Workforce Investment Board, to establish a task force to assist OSHPD in developing a health care workforce master plan for the state. We watched this bill as it was passed by the Legislature and sent to the Governor. The Governor vetoed the bill with the following statement, "While I support the intent of the author and recognize the importance in developing California's health professions workforce, this bill is unnecessary and duplicative of efforts already underway."

#### **7. AB 818 (Hernandez) Health facilities: connection ports**

This bill delays the prohibition on a health facility using a tubing connection that would fit into a connection port other than the type for which it was intended until the earlier of January 1, 2014 or 36 months after the International Organization for Standardization (ISO) publishes a new applicable design standard for epidural connections, and the earlier of January 1, 2013, or 24 months after ISO publishes an applicable design standard, for intravenous or internal connections. Existing law prohibits, beginning January 1, 2011, a health facility from using an intravenous connection, epidural connection, or enteral feeding connection that would fit into a connection port other than the type for which it was intended. We carefully watched AB 818 as it moved to the Governor's desk. The Governor signed AB 818 as Chapter 475, Statutes of 2009.

#### **8. SR 16 (Leno) Relative to World Kidney Day**

This resolution recognizes March 12, 2009, as World Kidney Day, and the important role World Kidney Day plays in helping health care professionals, kidney patients and their families, and patient advocates in their efforts to stress the importance of early screening and detection of chronic kidney disease. CDC supported this Senate Resolution.