



## California Dialysis Council

1904 Naomi Place • Prescott, AZ 86303 • Prescott, AZ 86303 • Phone: 928-717-1156 • Fax: 928-441-3857



### Legislative Update – CDC Sponsored Bills Move Forward

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

## NEWS

## UPDATE

### 1. Bill to Delete Old Home Dialysis Agency Law. Enacted.

As we reported last week, the CDC sponsored measure to delete the old "home dialysis agency law" has been signed by the Governor. SB 221 (Walters) was signed as Chapter 39, Statutes of 2009.

This measure is important because it eliminates an old law which has never been implemented and which has created confusion in connection with dialysis in skilled nursing facilities and other long term care entities.

In June 2007, the State issued an All Facilities Letter (AFL) stating that the provision of dialysis services in a long-term care setting, including SNFs, was not authorized. The department interpreted the home dialysis agency statutes as applicable to SNF dialysis providers; since no provider was licensed as a home dialysis agency, the department ordered the delivery of dialysis services in SNFs to cease. CDC met with the State and convinced them that this interpretation was incorrect.

In August 2007, a subsequent All Facilities Letter was issued which superseded and clarified the letter issued two months prior. In the new letter, the Department stated that, upon further review, it had determined that dialysis services may be provided in SNFs under existing regulations, which allow for the provision of dialysis as an optional service. DPH clarified that SNFs must meet specified federal certification standards, and be authorized by DPH to provide the dialysis services, and that the services must be added to the facility's license. The letter provided that these dialysis services may only be provided to residents of the facility, and not to the general public and further provided that if the SNF does not employ qualified persons to provide dialysis services, it may contract with an outside service that meets all applicable standards for providing dialysis services. SNFs are required to have written policies and procedures for the management of dialysis services.

We are hopeful that repeal of the old, confusing Home Dialysis Agency Law will avoid future complications.

## **2. Hemodialysis Technician Training Act Amendments Moving Forward**

We are extremely pleased to report that SB 112 (Oropeza) is moving forward in the Legislature. The measure is now on the Floor of the Assembly and should be on the Governor's desk within in the next three weeks.

SB 112 became necessary when the Federal Government adopted the new conditions for coverage (CfC). New requirements included in the CfC call for all hemodialysis technicians to pass one of three national testing programs identified by CMS or be certified by a state program which is approved by CMS. In order to obtain CMS approval for the California Hemodialysis Technician Certification Program, we needed to make several modifications in the Hemodialysis Technician Training Act. SB 112 will make those needed revisions.

In addition to the CDC legislative efforts, a very important CDC committee has been working on development of a "standardized test" that can be submitted to the State for approval and which should satisfy CMS in connection with obtaining CMS approval for the California State Certification Program as an alternative to the three national testing programs recognized under the CfC. The CDC Board is hopeful that CDC can offer the California standardized test to hemodialysis technicians as an "alternative pathway" to pursue in meeting both the state certification requirements and the federal CfC requirements.

Importantly, however, hemodialysis technicians should not wait for the CDC program to be available. There are many additional steps to be completed before the CDC will be in a position to offer a California exam. We are doing our very best to have the CDC program up and running as soon as possible, but there are many additional hurdles to overcome. We shall keep CDC members apprised relative to our efforts on this important matter.

## **3. State Legislature Back in Session**

The State Legislature came back to Sacramento from their summer recess on Monday, August 17th. They remain in regular session until September 11th. However, the continuing fiscal difficulties of California will likely cause the Governor to call for a Special Session beginning sometime in September.

We shall closely monitor the activities of the special session to be sure that a Medi-Cal provider reimbursement rate cut is not included in whatever agreement is reached to address the continuing the fiscal crisis.

In addition to the above, CDC takes positions on dozens of additional legislative proposals. Any CDC member may go to the CDC website to obtain the CDC "Legislative Status Report" showing all of the bills being followed and CDC positions on each bill.

We will keep you closely apprised as the situation changes in Sacramento.