

## Senate Joint Resolution No. 13

### RESOLUTION CHAPTER 45

Senate Joint Resolution No. 13—Relative to new dialysis clinic licensure and certification.

[Filed with Secretary of State June 28, 2010.]

#### LEGISLATIVE COUNSEL'S DIGEST

SJR 13, Oropeza. New dialysis clinic licensure and certification.

This measure would urge the Centers for Medicare and Medicaid Services 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.

WHEREAS, There is a critical need for more end stage renal disease (ESRD) dialysis clinics to serve the existing and growing population of dialysis patients in California; and

WHEREAS, It is critical to continue to expand the number of dialysis clinics in California to keep pace with the growing population of dialysis patients, driven by the growth in hypertension and diabetes, which are the two primary diagnoses leading to chronic kidney disease (CKD) and kidney failure; and

WHEREAS, A new dialysis clinic must have a state licensure survey and a separate Centers for Medicare and Medicaid Services (CMS) certification survey before the clinic may be reimbursed for treating Medicare patients; and

WHEREAS, New dialysis clinics must wait months, and more than a year in some instances, for state surveyors to perform the licensure and certification surveys needed in order for these facilities to open their doors to Medicare patients; and

WHEREAS, The current state of the licensure and certification process reduces the incentive for dialysis providers to consider California locations for new dialysis clinics and increases the potential for future access problems for California patients; and

WHEREAS, Many patients must travel beyond conveniently located new dialysis clinics for months because the new clinics lack licensure and certification surveys, even though the new clinics are fully outfitted, staffed, and ready to serve patients; and

WHEREAS, In areas where all dialysis clinics are at maximum capacity, some Medicaid and Medicare patients must be kept in acute care hospitals, at much greater cost, while they wait for availability at a dialysis clinic so that they may transfer to a long-term care facility and obtain outpatient dialysis care at the clinic; and

WHEREAS, CMS requires state surveyors in the Licensing and Certification Division of the State Department of Public Health to perform surveys pursuant to a four tier survey process. New dialysis clinic surveys are placed in Tier III; and

WHEREAS, CMS requires the department to complete all functions categorized as Tier I or Tier II prior to completing functions in Tier III, but provides insufficient funding for the completion of the Tier I and Tier II functions; and

WHEREAS, CMS should either separate new dialysis clinic surveys from other functions in the four tier process, move new dialysis clinic surveys into Tier I or Tier II, or provide adequate funding to ensure the completion of Tier I, II, and III functions on a timely basis; and

WHEREAS, The new CMS requirement for a “justification letter” for new dialysis clinics further slows the process and should be eliminated; and

WHEREAS, CMS should permit the department surveyors to better utilize their resources by allowing state licensure surveys to be completed simultaneously with CMS certification surveys; now, therefore, be it

*Resolved by the Senate and the Assembly of the State of California, jointly,* That the Legislature of the State of California strongly urges 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 to provide patients with access to these services as soon as possible and to eliminate the chilling impact on new clinic construction in California; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the Majority Leader of the United States Senate, each Senator and Representative from California in the Congress of the United States, the Administrator for the Centers for Medicare and Medicaid Services, and to the author for appropriate distribution.