

# Studies Prove that Safe Staffing Saves Lives: Facts Behind the Dialysis Patient Safety Act

**“Studies consistently show that improved staffing in dialysis settings improves patient outcomes, decreases hospitalizations and reduces exposure to infectious disease. The truth is, the Dialysis Patient Safety Act will cut into the outsized profit margins of the two largest dialysis companies, Fresenius and DaVita by forcing them to invest more in patient care. That’s why they’re fighting the bill with scare tactics and excuses. Every objection the companies put up against the bill is just a smoke screen to protect their huge profit margins.”**

*—Denise Duncan, RN, UNAC/UHCP President*



## **Don’t Believe the Scare Tactics**

At least twice before, health care providers have made the same gloom-and-doom predictions to prevent regulations that would improve patient safety but cut into their profit margins.

**In 2007-2008**, Centers for Medicare and Medicaid Services (CMS) instituted a requirement for at least one RN to be on-site during dialysis treatments.

Fresenius and DaVita predicted:

- Clinics would close across the United States
- Caregiver layoffs
- Treatment hours cut

None of that happened.

In fact, they’ve seen dramatic growth in the numbers of clinics they operate. <sup>12</sup>

**In 1999**, UNAC/UHCP and other nurses’ unions won passage of California’s landmark safe RN staffing law, which mandated nurse-to-patient ratios in acute care hospitals.

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<sup>1</sup> Fresenius Medical Care Annual Reports 2006 & 2016

<sup>2</sup> DaVita, Inc. 10-Ks 2006 & 2016

The California Hospital Association opposed the law with similar gloom-and-doom predictions:

- RN layoffs
- RNs replaced with LVNs
- Ancillary and support staff layoffs

None of that happened.

In fact, there was an increase in nursing employment, with no reduction in nursing hours or changes in shifts.<sup>3</sup>

There was no loss in ancillary staff.<sup>4</sup>

**In 2017**, desperate to defeat safe staffing ratios, the big dialysis companies are once again making all the same predictions:

- Clinic closures
- Decreased access for patients
- Fewer treatments and missed treatments

We've been down this road before.

History indicates that the threats are not credible. They are scare tactics and excuses designed to protect the outsized profit margins of an under-regulated industry.

### **Dialysis RNs and PCTs Will Not be Fined for Clinic Violations**

The dialysis companies have made the claim that employees could have to face the hardship of having to directly pay penalty fines assessed under the Dialysis Patient Safety Act. This is false.

Key excerpts from the bill:<sup>5</sup>

Section 1240.1. (a) The director may assess an administrative penalty **against a chronic dialysis clinic** for a violation of this chapter...

(b) The department shall promulgate regulations establishing the criteria to assess an administrative penalty **against a chronic dialysis clinic**...

(c) **...A chronic dialysis clinic shall pay all administrative penalties** when all appeals have been exhausted and the department's position has been upheld.

The penalty assessments in the legislation are like those assessed under current law against hospitals that commit violations.

<sup>3</sup> Denise Duncan, RN, UNAC/UHCP President and Bill Rouse, Executive Director of UNAC/UHCP

<sup>4</sup> Linda Flynn, Researcher, Professor, University of Colorado, College of Nursing

<sup>5</sup> [http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill\\_id=201720180SB349](http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201720180SB349)



Those penalties are paid by the corporation that owns the hospital, *not* by nurses, patient care technicians or other direct caregivers.

### **Better Staffing = Better Patient Care**

Studies consistently show that better staffing means better patient outcomes, fewer hospitalizations and lower rates of infections like hepatitis B and C.<sup>6,7,8</sup>

- A 2010 academic article found a 19% higher risk of death at Fresenius facilities and a 24% higher death risk at DaVita facilities, than for patients receiving care at the biggest non-profit chain. Poorer staffing has been suggested as a significant reason for this difference. Yet Fresenius and DaVita are the ones fighting ratios the hardest, while claiming to protect patients.<sup>9</sup>
- A survey of staff nurses at a national hemodialysis company found that 41% of RNs felt there was insufficient staff at their facility to perform their jobs safely. This same survey found correlations between insufficient staffing and increases in nurse turnover, nurse burnout, patient hospitalizations, and decreases in patient satisfaction.<sup>10</sup>
- Several studies have found evidence of a correlation between improved social worker staffing and decreases in dialysis patient hospitalizations and premature death.
- Improved social worker staffing has also been linked to reductions in missed and shortened dialysis appointments, rates of depression, and increases in adherence to fluid intake restrictions; which are all in turn correlated with decreases in hospitalizations.
- Thus, the ratios in the Dialysis Patient Safety Act should reduce missed treatments and cut down on hospitalizations, not increase them.<sup>11,12</sup>

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<sup>6</sup> Wolfe, W. A., (2016, July 6). Is it possible to reduce hospital admissions through evidence-based clinic staffing? *Nephrology News and Issues*. 26 - 33.

<sup>7</sup> Wolfe, W. A., (2011). Adequacy of Dialysis Clinic Staffing and Quality of Care: A Review of Evidence and Areas of Needed Research. *American Journal of Kidney Disease*. 58(2). 166 – 176.

<sup>8</sup> Thomas-Hawkins, C., Flynn, L., Clarke, S. P., (2008) Relationships Between Registered Nurse Staffing, Processes of Nursing Care, and Nurse-Reported Patient Outcomes in Chronic Hemodialysis Unit. *Nephrology Nursing Journal*. 35(2). 123 – 131.

<sup>9</sup> Zhang, Y., Cotter D. J., & Thamer, M. (2011). The Effect of Dialysis Chains on Mortality among Patients Receiving Dialysis. *Health Services Research*, 46(3), 747 – 767.

<sup>10</sup> Gardner, J. K., Fogg, L., Thomas-Hawkins, C., Latham, C. E., (2007). The Relationships Between Nurses' Perceptions of the Hemodialysis Unit Work Environment and Nurse Turnover, Patient Satisfaction, and Hospitalizations. *Nephrology Nursing Journal* 34(3) 271 – 281.

<sup>11</sup> Wolfe, W. A., (2016, July 6). Is it possible to reduce hospital admissions through evidence-based clinic staffing? *Nephrology News and Issues*. 26 - 33.

<sup>12</sup> Wolfe, W. A., (2011). Adequacy of Dialysis Clinic Staffing and Quality of Care: A Review of Evidence and Areas of Needed Research. *American Journal of Kidney Disease*. 58(2). 166 – 176.



- Studies have found links between high patient to nurse ratios (understaffing) and several adverse outcomes including greater risk of exposure to Hepatitis C infections, failure to adhere to hygiene standards, increased numbers of medication errors, and greater turnover.
- Greater turnover in turn has been associated with decreasing quality of patient care, particularly in ESRD facilities.
- One study shows that poor RN staffing was associated with:<sup>13</sup>
  - Higher numbers of necessary nursing tasks left undone on the RNs' last shift worked.
  - RN reports of frequent adverse patient events, including skipped dialysis treatments, shortened dialysis treatments, dialysis hypotension, and patient complaints.
- Dialysis mortality and infection rates in the United States are higher than in most other developed countries, such as Japan and many European countries, where staffing is better.<sup>14</sup>

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<sup>13</sup> Thomas-Hawkins, C., Flynn, L., Clarke, S. P., (2008).

<sup>14</sup> Foley, Robert N. & Hakim, Raymond M. (2009). Why Is the Mortality of Dialysis Patients in the United States Much Higher than the Rest of the World? *Journal of the American Society of Nephrology*. 20, 1432–1435.



<b>Mortality Rates for In-Center Hemodialysis (Deaths per 100 Patient Years)</b>			
<b>Time on Dialysis</b>	<b>≤ 120 Days (Mortality Rate)</b>	<b>121 - 365 Days (Mortality Rate)</b>	<b>&gt; 365 Days (Mortality Rate)</b>
1	Belgium (33.5)	<b>United States (21.8)</b>	Belgium (19.9)
2	<b>United States (33)</b>	Belgium (19.4)	Sweden (19.5)
3	Sweden (28.4)	Sweden (19.2)	<b>United States (18.1)</b>
4	Italy (28.3)	United Kingdom (18.6)	Canada (17.4)
5	Australia/New Zealand (25.4)	Canada (17.3)	France (15.8)
6	Canada (24.6)	Italy (16.9)	United Kingdom (15.6)
7	France (22.8)	Germany (14.9)	Germany (14.8)
9	United Kingdom (22.1)	Australia/New Zealand (14.6)	Australia/New Zealand (13.9)
10	Germany (20.1)	France (14.4)	Italy (13.4)
11	Japan (17)	Japan (5.3)	Japan (5.2)

Table was constructed using data from: Robinson, B., Zhang, J., Morgenstern, H., Bradbury, B. D., Ng, L. J., McCullough, K., ... Pisoni, R. (2014). World-wide, mortality is a high risk soon after initiation of hemodialysis. *Kidney International*, 85(1), 158–165. <http://doi.org/10.1038/ki.2013.252>

Data for table is from the Dialysis Outcomes and Practice Patterns Study (DOPPS) census data for years 2002 through 2008

### **Safer Transition Times = Safer Patient Care**

Adequate transition time between patients is crucial to preventing the spread of infections like hepatitis B and C.

- Nevertheless, national data reveals that infection-related hospitalizations of dialysis patients have increased 47% since 1993.<sup>15</sup>
- In a national survey of dialysis clinic nurses, only 39% of respondents reported that transitions were handled safely in their clinics.<sup>16</sup>

<sup>15</sup> Wolfe, W. A., (2016, June). Is it possible to reduce hospital admissions through evidence-based clinic staffing? *Nephrology News and Issues*. 26 - 33.

<sup>16</sup> Thomas-Hawkins, C & Flynn, L. (2015). Patient Safety Culture and Nurse-Reported Adverse Events in Outpatient Hemodialysis Units. *Research and Theory for Nursing Practice: An International Journal* 29(1). 53 – 65.



- Research has demonstrated that when CDC guidelines for prevention of infections in dialysis facilities are adhered to, infection rates in these facilities can be dramatically reduced.
- Recent studies have shown that with inadequate transition times between patients, technicians were unable to consistently follow all the CDC infection control guidelines.<sup>17</sup>
- Another study found that increased interruptions and increased demands on nurses' time during patient transition periods can threaten patient safety and lead to adverse patient events.<sup>18</sup>

### **Dialysis Clinics Must be Held Accountable to Patient Safety**

A 2010 investigation by ProPublica found that California had an extremely poor record in conducting timely inspections of dialysis facilities and responding to complaints about unsafe conditions in these facilities.

- The study found that California had “by far the biggest” inspection backlog, even after controlling for the larger number of facilities in the state.
- The number of dialysis facilities that have gone six or more years without an inspection tripled between 2005 and 2010. Some facilities hadn't been inspected in more than 20 years.
- Furthermore, the study found that the state had failed to inspect dialysis facilities that were the subject of multiple substantiated patient safety complaints or were in the bottom 20% in measures such as patient survival rates.
- Despite all the problems uncovered in ProPublica's study, the California Dialysis Council defended the state's inspection regime as being adequate.
- This echoes the California Dialysis Council's current opposition to the Dialysis Patient Safety Act, and undermines their arguments that the Act is unnecessary.<sup>19</sup>

### **Fresenius and DaVita Can Afford to Invest More in Patient Care**

- The two largest dialysis companies in the U.S. and California are Fresenius and DaVita.

<sup>17</sup> Wolfe, W. A., (2016, July 6). Is it possible to reduce hospital admissions through evidence-based clinic staffing? *Nephrology News and Issues*. 26 - 33.

<sup>18</sup> Thomas-Hawkins, C & Flynn, L. (2015). Patient Safety Culture and Nurse-Reported Adverse Events in Outpatient Hemodialysis Units. *Research and Theory for Nursing Practice: An International Journal* 29(1). 53 – 65.

<sup>19</sup> Fields, R., (2010, Dec 28). Led by California, Inspection Backlogs Weaken Dialysis Oversight. *ProPublica*. Retrieved from: <https://www.propublica.org/article/led-by-california-inspection-backlogs-weaken-dialysis-oversight>.



- In 2016, Fresenius brought in \$17.9 billion<sup>20</sup> in operating revenue. DaVita brought in \$14.7 billion.<sup>21</sup>
- Fresenius' operating margin in FYE 12/2016 was 14.7%<sup>22</sup> DaVita's operating margin in FYE 12/2016 was 12.9%.<sup>23</sup>
- By comparison, most major hospital chains have much smaller profit margins.

<b>2016 Operating Revenue, Income, and Margin</b>			
<b>Health Care Provider</b>	<b>Operating Revenue</b>	<b>Operating Income</b>	<b>Operating Margin</b>
<b>Fresenius<sup>24</sup></b>	<b>\$17.9 Billion</b>	<b>\$2.6 Billion</b>	<b>14.7%</b>
<b>Universal Health Services (UHS)<sup>25</sup></b>	\$9.8 Billion	\$1.3 Billion	13.1%
<b>DaVita Inc.<sup>26</sup></b>	<b>\$14.7 Billion</b>	<b>\$1.9 Billion</b>	<b>12.8%</b>
<b>Sharp HealthCare<sup>27</sup></b>	\$3.5 Billion	\$0.3 Billion	8.6%
<b>Tenet Healthcare<sup>28</sup></b>	\$19.6 Billion	\$1.2 Billion	6.2%
<b>Scripps Health<sup>29</sup></b>	\$2.9 Billion	\$0.1 Billion	4.9%
<b>Kaiser Permanente<sup>30</sup></b>	\$64.6 Billion	\$1.9 Billion	3.0%

Fresenius and DaVita can afford to invest more in patient care, but they refuse.

They can also afford to pay competitive wages and benefits, and provide a supportive work environment for caregivers, both to stem turnover and to recruit and retain new RNs and PCTs into the specialty.

<sup>20</sup> Fresenius Medical Care FYE 12/2016 Form 20-F

<sup>21</sup> DaVita FYE 12/2016 Form 10-K

<sup>22</sup> Fresenius Medical Care FYE 12/2016 Form 20-F

<sup>23</sup> DaVita FYE 12/2016 Form 10-K

<sup>24</sup> Fresenius Medical Care FYE 12/2016 Form 20-F

<sup>25</sup> Universal Health Services FYE 12/2016 Annual Report

<sup>26</sup> DaVita FYE 12/2016 Form 10-K

<sup>27</sup> Sharp HealthCare Consolidated Financial Statements and Supplementary Information FYE 9/2016

<sup>28</sup> Tenet Healthcare Corporation FYE 12/2016 Form 10-K

<sup>29</sup> Scripps Health Consolidated Financial Statements and Supplementary Information FYE 9/2016

<sup>30</sup> Kaiser Foundation Health Plan, Inc. and Subsidiaries and Kaiser Foundation Hospitals and Subsidiaries Combined Financial Statements and Credit Group Financial Information FYE 12/2016



**“It is not lost on me that the vast majority of the opposition [to the Dialysis Patient Safety Act] was from administrators, i.e., management.** That the folks in support of the bill were the folks who do the job every day. I had the opportunity to meet with three dialysis companies, all for profit, and a number of the workers. And not one of the dialysis companies I met with said that they weren’t profitable. So, if staffing ratios would be increased, then their profits would be less...

**“I think that we need to as a society decide what’s important to us... And is it profits? Or is it making sure that these very vulnerable people in our society are taken care of?”**

“We want companies to make money. But we also want to make sure that they’re taking care of people that are doing the job and making them the money. And in this case, it’s not only the workers, it’s also the people who are coming in to be dialyzed... So, Senator Lara, I fully support the bill and I thank you for bringing it forward.”

—*State Senator Connie Leyva, San Bernardino, during California Senate Health Committee’s 3/29/17 hearing on SB 349, The Dialysis Patient Safety Act*

