



# Dialysis & Nephrology

A monthly report by Benesch on the  
Dialysis & Nephrology Industry **DIGEST**

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## Calendar of Events

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OCTOBER 1-3, 2022  
**2022 ANNA Nephrology Nursing Practice, Management, & Leadership Conference**  
For information, please click [here](#).

OCTOBER 5-7, 2022  
**2022 Renal Healthcare Association Annual Conference**  
For information, please click [here](#).

NOVEMBER 3-6, 2022  
**American Society of Nephrology Kidney Week 2022**  
For information, please click [here](#).

FEBRUARY 17-19, 2023  
**American Society of Diagnostic and Interventional Nephrology 19th Annual Scientific Meeting**  
For information, please click [here](#).

MARCH 30-APRIL 2, 2023  
**RPA 2023 Annual Meeting - New Orleans, LA**  
For information, please click [here](#).

MAY 19-20, 2023  
**OEIS 10th Annual National Scientific Meeting**  
For information, please click [here](#).



Please contact us if you would like to post information regarding your upcoming events or if you'd like to guest author an article for this newsletter.

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## Dialysis & Nephrology DIGEST

### Nephrology and Dialysis Practices

JULY 13, 2022

#### [DOJ files civil complaint alleging Fresenius performed unnecessary procedures on dialysis patients](#)

In June, it was revealed that DOJ would partially join a whistleblower lawsuit against the dialysis provider. In a civil complaint [filed](#) July 12, the department alleges Fresenius subsidiary Azura Vascular Care of violating the False Claims Act by performing medically unnecessary procedures on dialysis patients at nine locations in NY. The complaint claims the company incentivized employees to perform the surgeries to increase its own profits despite not providing any health benefit to the patients. As well, the DOJ believes Fresenius falsified medical records to make it appear as though the patients were referred for the procedures.

Related: [Feds accuse Fresenius unit of fraud over repeat surgeries](#) - Law360 (sub. rec.)  
[U.S. accuses Fresenius Medical Care unit of fraud in dialysis treatment](#) - Reuters  
[Justice Department files lawsuit alleging Fresenius charged for unneeded access procedures](#) - Healio (sub. rec.)  
[Fresenius Vascular Care accused of defrauding federal programs at 9 locations](#) - Becker's Hospital Review

SOURCE: The United States Department of Justice

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JULY 27, 2022

#### [DOJ throws cold water on whether DaVita can use McDonald's no-poach win to defend itself from civil suits](#)

In a [motion](#) filed in the U.S. District Court for the Northern District of Illinois, DOJ outlined a no-poach case resolved in favor of McDonald's has no bearing on civil litigation for similar allegations against DaVita and other healthcare providers. According to the federal government, the distinction is that the arrangement restricting worker recruitment at McDonald's is vertical, as it involved franchisees. However, DOJ considers the agreements in the DaVita case as horizontal as it involved direct competitors for labor. DaVita was cleared in a criminal no-poach trial but is facing a civil suit from former employees.

SOURCE: Law360 (sub. rec.)

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## Nephrology and Dialysis Practices (cont'd)

JULY 20, 2022

### **DOJ makes 36 arrests in billion-dollar fraud scheme**

DOJ says the alleged scheme involves telemedicine, cardiovascular and cancer genetic testing and durable medical equipment. In connection with the enforcement action, the department seized over \$8 million in cash, luxury vehicles and other fraud proceeds. The CMS' Center for Program Integrity also took administrative action against 52 providers involved in similar schemes. DOJ states the plot involved payment of illegal kickbacks and bribes by lab owners and operators in exchange for patient referrals from medical professionals by fraudulent telemedicine and digital medical technology companies. The telemedicine part of the scheme accounted for \$1 billion of the total.

SOURCE: The United States Department of Justice

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JULY 1, 2022

### **DaVita CEO calls SCOTUS interpretation 'too narrow' in decision on dialysis reimbursements**

Javier Rodriguez contends SCOTUS acknowledged the Medicare Secondary Payer Act (MSPA) is designed to prevent private plans from pushing members onto Medicare by offering lower benefits than those already on the public plan. While the justices' ruling doesn't undermine the principle of same coverage for everyone, he says, it may set a precedent whereby plan sponsors opt to offer all employees limited benefits for outpatient dialysis so that they do migrate to Medicare. Rodriguez states the ruling's timing may be too late to affect benefits' plans up for renewal in 2023 but by 2024, the full impact should be known. He adds that every shift of 10% of outpatient dialysis to Medicare fee for service equates to \$20 million in operating income.

Related: [Kidney groups call out US Supreme Court decision on DaVita, hospital employee health plan](#) - Healio (sub. rec.)

SOURCE: Healio (sub. rec.)

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**Nephrology and Dialysis Practices (cont'd)**

JULY 28, 2022

**Fresenius blames labor issues for cut in earnings outlook, share drop**

In an unscheduled financial statement, Fresenius reported a 20% decline in net income so far this year, with sales growth expected to be at the low range of projections for the remainder of 2022. The company blames the gloomy financial news on staffing shortages at its U.S. dialysis operations, saying it turned to agencies to find enough nurses to keep centers going. With many U.S. patients' dialysis costs covered by Medicare, the company says revenues are not keeping up with increased staffing costs. Fresenius adds it's unlikely it'll achieve organic revenue growth in North American healthcare services this year. On the news, shares at Fresenius Medical Care fell 8.4% to a two-year low.

**SOURCE:** Reuters

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JULY 21, 2022

**Dialyze Direct merges with Chicago-based RenPro Renal Services**

Home hemodialysis provider [Dialyze Direct](#) says RenPro Renal Services, which operates dialysis services in skilled nursing facilities (SNF) in IL, IN, OH and KY, will merge into the company under the Dialyze Direct banner. Dialyze Direct states the RenPro transaction fits with the company's strategy of expanding its on-site dialysis model to across the U.S. Terms of the deal weren't disclosed.

**SOURCE:** Dialyze Direct

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## Nephrology and Dialysis Practices (cont'd)

JULY 18, 2022

### [RPA says CMS 2023 Physician Fee Schedule a mixed bag for nephrologists](#)

In its [response](#) to the 2023 Medicare Physician Fee Schedule [proposed rule](#), the Renal Physicians Association (RPA) notes valuation for dialysis services will for the most part remain unchanged or will rise slightly next year. However, the conversion factor for nephrology fees is set to decrease from \$34.60 to \$33.07. The RPA says it was anticipating the 4.4% reduction, given that the bulk of the difference was from a one-time 3% bump approved by Congress to support last year's shortfall due to budget neutrality and a proposed increase in inpatient E&M codes. The RPA points out the rule would finalize payments codes for two approved methods for percutaneous AV fistula, although CMS is recommending reductions in the RVUs for both systems.

Related: [CMS seeks 4.42% physician fee cut in 2023](#) - Becker's ASC Review

[CMS targeting ACOs, behavioral health in 2023 Physician Fee Schedule proposed rule](#) - Healthcare Finance

[2023 proposed Physician Fee Schedule from CMS includes proposal for CME providers to submit data on improvement activities directly on behalf of healthcare providers](#) - Policy & Medicine

SOURCE:Healio (sub. rec.)

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## Dialysis & Nephrology DIGEST

### Nephrology and Dialysis Practices (cont'd)

JULY 1, 2022

#### **NKF: House committee approves funding package; includes money for KidneyX project**

The House Appropriations Committee approved the FY 2023 Labor, Health and Human Services, Education, and Related Agencies [appropriations bill](#). The National Kidney Foundation (NKF) says the legislation includes the following priorities:

- Increased investment in kidney disease prevention and management: \$8.5 million for the CDC's Chronic Kidney Disease program to increase awareness, diagnosis and treatment of CKD;
- Increased Investment in Living Donation: A \$1-million increase to the National Living Donor Assistance Center to a total of \$8 million;
- Investments in Innovation and Research: \$5 million for Kidney X, support for research on disparities in the prevention, diagnosis and treatment of kidney disease among racial and ethnic minority populations and support for research into health equity initiatives; and
- Reducing Organ Discards: Encouraging the transplantation of moderate-to-high KDPI kidneys at risk of discard to alleviate the organ shortage.

The NKF says it's working with the Senate's appropriators to ensure kidney care investments are preserved.

SOURCE: National Kidney Foundation

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JULY 27, 2022

#### **Fresenius introduces bloodline technology to reduce manual connections during dialysis**

Fresenius says the [CombiSet Smartech](#) system is a single-use bloodline that integrates its Crit-Line blood chamber technology that continuously monitors key parameters in a patient's blood during hemodialysis. The company says the combination of the two technologies means fewer physical connections for patients while providing clinicians with real-time data about blood volume, plasma refill and oxygen saturation.

SOURCE: Fresenius

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## Nephrology and Dialysis Practices (cont'd)

JULY 11, 2022

### **FDA orders recall of 1M dialysis catheters sold by Medtronic**

The FDA says the 1.02 million catheters it ordered recalled are at risk of leaking during dialysis. [Medtronic](#) notes no reports of patient harm due to the products, sold by its subsidiary Covidien. This is the seventh Class 1 recall by the FDA at Medtronic this year. The medtech company was subject to 10 of the notices last year, which are reserved for the agency's most severe cases.

SOURCE: MedTech Dive

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JULY 18, 2022

### **Evergreen Nephrology joins living donor program launched by AST**

The [Living Donor Circle of Excellence](#) is an initiative of the American Society of Transplantation designed to encourage employers to offer salary benefits to workers who become living donors. Evergreen Nephrology is the latest dialysis provider in the group, joining DaVita and Fresenius. The company says it'll provide paid leave to employees who agree to donate an organ. AST points out one-fourth of donated kidneys came from living donors but financial disincentives continue to be a barrier for many who'd like to donate.

SOURCE: Evergreen Nephrology

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## Dialysis & Nephrology DIGEST

### VAC, ASC and Office-Based Labs

JULY 19, 2022

#### [Medical services broker questions whether existing bundle, rebate programs are optimized for OBLs, ASCs](#)

The founder of [Margin](#), Chas Sanders, says the trend of health services being removed from hospitals to OBL and ASC settings represents an opportunity to rethink the relationship between medical device providers and the care industry. He explains that once they step out from under the hospital umbrella, specialists are confronted for the first time about pricing, which he considers a significant predictor of future success. Traditionally, medical device vendors relied on bundles and rebates to advance their value propositions with providers. Bundles are groups of products sold by a single vendor at a lower cost than if each is sold individually. Sanders argues that if the items can be sold at a discount, they should be offered to physicians at OBLs and ASCs at that reduced price. Specialists may prefer devices from multiple suppliers due to cost or clinical needs. Instead of providing rebates based on usage, he contends a more open dialogue between suppliers and providers to agree on fair pricing upfront to further develop business relationships. Sanders concludes that “fair and transparent pricing without hooks” will enable outpatient facilities to flourish in the marketplace.

SOURCE: Vein Magazine

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JULY 19, 2022

#### [WellSpan acquires ownership stake in Md. ASC from SCA Health](#)

[Parkway Surgery Center](#) in Hagerstown is affiliated with SCA Health and provides spinal pain management services, operative and non-operative spine care, operative and non-operative peripheral nerve care and anesthesia services. Prior to acquiring the ownership stake in the ASC, WellSpan Health welcomed specialists from the Parkway Neuroscience and Spine Institute physician group, which performed procedures at the Parkway Surgery Center.

SOURCE: Becker’s ASC Review

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## VAC, ASC and Office-Based Labs (cont'd)

JULY 15, 2022

### **CMS proposed ASC payment rule calls for 2023 increase**

In its annual review of the ASC payment system, CMS estimates the projected hospital market basket increase for 2023 at 3.1%. Applying the productivity adjustment of 0.4%, the proposed fee increase for next year at approximately 5,500 ASCs in the country is pegged at 2.7%. CMS also proposes the addition of one procedure to the covered procedures list for 2023, lymph node biopsy or excision. The agency is also seeking comment on future considerations for quality reporting, such as volume indicators or a specialty center approach, as well as issues like interoperability and EHR.

Related: [CMS proposes 2.7% increase in CY23 OPPS, ASC reimbursement rates](#) - RevCycle Intelligence

**SOURCE: CMS**

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JULY 12, 2022

### **Satellite Healthcare setting up PAD Center of Excellence at San Jose VAC**

Satellite Healthcare is partnering with healthtech [Modulim](#) in establishing a center of excellence for peripheral arterial disease (PAD), a common complication of CKD and ESRD. Modulim developed limb assessment, management and preservation (LAMP) to improve PAD diagnosis and avoid costly hospital interventions. Satellite says the initial center of excellence will be installed at its VAC in San Jose, with plans to integrate LAMP at its dialysis facilities and other VACs over the next 12 months.

Related: [Satellite Healthcare celebrates grand opening in East San Jose center](#) - Satellite Healthcare

**SOURCE: Satellite Healthcare**

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# Dialysis & Nephrology DIGEST

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## Dialysis & Nephrology DIGEST

### Other Interesting Industry News

JULY 7, 2022

#### [Somatus delivering value-based system to multi-state kidney care provider, KCC](#)

Based in a Chicago suburb, [Kidney Care Center](#) (KCC) operates 32 kidney care facilities in six states. [Somatus](#) says its value-based system will supplement the services being delivered by KCC, namely through the provision of a multi-disciplinary team focused on whole-person, in-home care. This could include a locally-based RN care manager, an NP, a renal dietitian, a clinical social worker, a pharmacist and a patient health advocate.

SOURCE: Somatus

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JULY 5, 2022

#### [Evergreen Nephrology continues expansion of value-based kidney care with MI, DE agreements](#)

One of Nashville-based Evergreen Nephrology's JVs is with specialist nephrology practice [Nephrology Associates of Michigan](#), which operates eight clinical offices and 18 dialysis locations in the southeastern part of the state. The second partnership is with [Nephrology Associates](#), which offers dialysis, home dialysis and vascular access among its slate of nephrology services in DE. Evergreen notes that in addition to expanding its network of providers through value-based agreements, it plans to launch an MA plan by next year.

Related: [Prevalence and characteristics of CKD in the U.S. Military Health System: A retrospective cohort study](#)—Kidney Medicine

SOURCE: Evergreen Nephrology

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JULY 25, 2022

#### [DaVita partners with American Diabetes Association on kidney disease prevention initiative](#)

DaVita sponsored the page on the ADA website which discusses how patients with diabetes can prevent kidney disease, learn to live with CKD and how to manage advanced progression of CKD. Among the features of the site are:

- Kidney Smart classes - an interactive community and virtual education program available at no cost;
- Kidney-friendly recipes, meal plans and eating tips; and
- Guidance for engaging with physicians.

SOURCE: American Diabetes Association

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**Other Interesting Industry News (cont'd)**

JULY 5, 2022

**[CMS research suggests implicit racial bias in KCC payment model](#)**

CMMI looked at three payment models, including Kidney Care Choices (KCC), for examples of implicit bias in the use of risk assessment and screening tools, provider processes and payment design algorithms. CMMI notes Black Americans are three times more likely to have ESRD than White Americans but have less access to donated organs and lower graft survival rates. The study zoned in on a race-adjusted metric that inflated kidney function in Black Americans and delayed referrals for specialized treatment. Although it's recommended clinicians use a different measure to diagnose kidney function that removes the racial component, CMMI notes some beneficiaries may have been assessed under the previous metric and are still being denied treatment under the KCC model. It adds that the number of Black beneficiaries who may have been excluded from the model cannot be reliably estimated.

Related: [CMS finds 'troubling' implicit bias in 3 payment models](#) - Healthcare Dive  
[Breaking research could reduce healthcare disparities by making kidney disease diagnosis and treatment more equitable](#) - AACC

SOURCE: Health Affairs

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JULY 11, 2022

**[Research finds non-white hemodialysis patients more likely to report unmet supportive care needs](#)**

The University of Washington led a self-report survey of patients receiving maintenance dialysis regarding palliative and end-of-life care. Participants were divided into three groups: Asian American, Native Hawaiian or other Pacific Islander, Black American and White American. White Americans were less likely to report wanting to learn about treating pain (39%) than Black Americans (53%) or Asian Americans, Native Hawaiians or other Pacific Islanders (55%). Also significant was that 52% of white American wanted to learn about treating symptoms of kidney disease, compared with 68% of Black Americans and 70% of Asian Americans, Native Hawaiians or other Pacific Islanders.

SOURCE: JAMA Internal Medicine

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and office-based lab experience, or  
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