



# Dialysis & Nephrology DIGEST

A monthly report by Benesch on the  
Dialysis & Nephrology Industry

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JUNE 15, 2023

**Benesch Healthcare+ Third Annual  
Dialysis and Nephrology Conference**

To register, please click [here](#).

**June 7, 2023**

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## Calendar of Events

MAY 30-JUNE 2, 2023

### **NCVH Annual Conference**

For information, please click [here](#).

JUNE 15, 2023

### **Benesch Healthcare+ Third Annual Dialysis and Nephrology Conference**

To register, please click [here](#).

JUNE 24-25, 2023

### **RPA: PAL 2022 Annual Forum**

For information, please click [here](#).

SEPTEMBER 22-24, 2023

### **10th Asia Pacific Chapter Meeting of the International Society for Peritoneal Dialysis**

For information, please click [here](#).

OCTOBER 14-16, 2023

### **ANNA: 2023 Nephrology Nursing Practice, Management, & Leadership Conference**

For information, please click [here](#).

APRIL 14-17, 2024

### **ANNA National Symposium**

For information, please click [here](#).

# Dialysis & Nephrology DIGEST



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**



**Benesch Healthcare+ Third Annual  
Nephrology and Dialysis Conference**

**Thursday, June 15, 2023**

**8:00 A.M. –5:00 P.M.**

Cocktail reception to follow

**Union League Club of Chicago**

65 W. Jackson Blvd. | Chicago, IL 60604

Please join us for this full-day conference addressing business and legal issues facing nephrology and dialysis providers. Hear from industry leaders discussing current and future trends in care delivery, business and payment models and legal and regulatory issues.

Click [HERE](#) to register.

Please contact MEGAN THOMAS ([mthomas@beneschlaw.com](mailto:mthomas@beneschlaw.com)) for more information about this event or if you require assistance.

**Exhibitor Opportunities**

**Exhibitor Space**.....\$1000 Per Table

Exhibitor tables will be set up in a space with high foot traffic from the conference.

Includes:

- Logo placement on printed materials
- Company overview/contact information within handout
- Two free conference registrations
- List of attendees to be mailed out a week prior to conference

**For more information or to sign up for an exhibitor space or sponsorship, please contact:**

MEGAN THOMAS / [mthomas@beneschlaw.com](mailto:mthomas@beneschlaw.com)

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## Nephrology and Dialysis Practices

### [Benesch: MN ban on non-compete agreements includes carveout for business sale, dissolution](#)

Benesch Law notes the [bill](#) only awaits the signature of MN's Governor and could become law as early as July 1. It would prevent employers from entering into covenants with employees, restricting their ability, upon termination, to:

- Work for another employer for a specified period of time;
- Work in a specified geographic area; or
- Work for another employer in a capacity that is similar to the employee's work for the employer that is party to the agreement.

These "covenants not to compete" don't include other agreements, such as NDAs, confidentiality, trade secret or non-solicitation agreements. The MN law would also permit a non-compete agreement when a business is sold or dissolved, provided it's "reasonable." This carveout means businesses should expect the courts to show less flexibility and deference "when enforcing non-compete agreements that arose out of the sale or dissolution of a business."

SOURCE: Benesch Law

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### [SCA motion makes case for termination of criminal non-compete case; DOJ rebuts](#)

Through a notice of additional authority filed in a Texas court, Surgical Care Affiliates (SCA) [states](#) a case alleging it illegally entered into no-poach agreements with DaVita and another company likely shouldn't proceed. SCA cites a recent acquittal in a similar criminal trial initiated by DOJ which suggested the alleged no-poach agreement didn't allocate the market to any meaningful extent. DOJ, which has yet to win a trial conviction relating to its recent crackdown on non-competes, [filed](#) a response in Texas, calling the ruling cited by SCA "erroneous" and the criminal case should continue.

SOURCE: Law360 (sub. rec.)

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## Nephrology and Dialysis Practices (cont'd)

### [IL judge denies request for grand jury documents relating to DaVita no-poach case, citing lack of jurisdiction](#)

A proposed class action in IL against Surgical Care Affiliates alleges senior-level employees were affected by the company's alleged agreements with DaVita and other competitors not to hire each other's managers. The plaintiffs, former workers, are seeking grand jury documents from a CO no-poach case brought against DaVita and former CEO Kent Thiry by the DOJ. That criminal trial resulted in acquittals for both defendants. An IL judge [denied](#) the request for the documents, saying the plaintiffs in the proposed class action should've petitioned a court in CO. The judge further noted the grand jury subpoenas resulted in over one million documents, so it would be prudent to allow the supervising judge to "determine this disclosure issue first."

SOURCE: Law360 (sub. rec.)

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### [SCOTUS setback doesn't prevent DaVita from pursuing ERISA suit against OH health plan](#)

Last June, SCOTUS [ruled](#) in favor of Marietta Memorial Hospital Employee Health Benefit Plan, saying it had the right to decide how much dialysis coverage plan members could receive. However, an OH judge [agreed](#) with DaVita that ruling doesn't preclude the continuation of a discrimination case by the dialysis provider against the health plan, saying SCOTUS "neither discussed nor disturbed" a [decision](#) from an appeals court that would allow an ERISA suit. DaVita alleges the plan discriminated against workers with ESRD by forcing them to use Medicare rather than its services.

SOURCE: Bloomberg Law (sub. rec.)

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### [U.S. Renal Care capital raise nets \\$328M to fund growth, expansion plans](#)

U.S. Renal Care claims 22% of nephrologists provide care through one of its clinics, while annual patient growth of 4% is outpacing competitors in the dialysis industry. U.S. Renal Care credits two innovations: home dialysis, where one-in-six of its patients are treated and its value-based care business, Kidneylink, with an annual spend north of \$600 million. From this latest round of funding, the company will continue to build out its capacity, while investing in programs focused on innovation and delivery of kidney care, as well as professional development.

SOURCE: U.S. Renal Care

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## Nephrology and Dialysis Practices (cont'd)

### Fresenius' Q1 financials better than expected as U.S. staffing concerns ease

Fresenius' adjusted operating income fell YoY by 9% in Q1 to \$380 million but that was better than the forecast of \$359 million for the quarter. The company cites improving treatment volumes and a stabilizing labor environment in the U.S. for the positive trend. However, the results confirm its full-year outlook of an adjusted operating income that's either flat or down slightly relative to last year. Fresenius adds it's on track to cede control of its dialysis business, although it'll maintain a stake in the group for the time being.

Related: [Life Healthcare to acquire operations of Fresenius Medical Care renal dialysis clinics in southern Africa](#) - Life Healthcare

SOURCE: Fresenius Medical Care

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### Baxter appoints head of planned kidney care spinoff; announces CFO transition

[Chris Toth](#) was most recently the CEO at Varian, a Siemens Healthineers Company. Baxter's spin off of its renal care and acute therapies businesses, Kidney Co, is expected to clear regulatory hurdles by July. Until that occurs, Toth will serve as EVP and group president for Kidney Care at Baxter. The company also appointed Chief Accounting Officer, [Brian Stevens](#) as interim CFO, replacing Jay Saccaro, who resigned to join a company in the healthcare industry.

SOURCE: Baxter

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### Strive Health names long-time healthcare consultant as Chief Customer Officer

The Denver value-based kidney care company tapped [Evelyn Goodfriend](#) to head its account management, customer retention and expansion. She comes to Strive Health from Spruce Street Consulting, where she was a managing partner and earlier held senior customer-facing roles at Accenture, Kaiser and Evolent Health.

SOURCE: Strive Health

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## Dialysis & Nephrology DIGEST

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

#### [Dialysis lobby group urges adjustment to ESRD PPS rule, calls for home dialysis measure to be implemented](#)

Kidney Care Partners (KCP), which counts the largest dialysis providers in the U.S. among its members, is backing a bipartisan effort in which [Senators](#) and [Representatives](#) are urging the Office of Management of Budget to include a forecast adjustment framework to the 2024 ESRD Prospective Payment System (ESRD PPS). The lawmakers contend the economic downturn brought on by the pandemic led to "significant forecast errors" in the ESRD PPS following 2021 and 2022. The adjustment would correct shortfalls in payments from CMS to dialysis providers facing unique financial challenges. KCP is also [concerned](#) the National Quality Forum isn't endorsing a home dialysis measure meant to inform the ESRD Treatment Choices payment model. The NQF rejected the measure, saying the data didn't suggest home dialysis improved patients' quality of life or outcomes, a conclusion KCP [rejected](#).

Related: [Kidney Care Partners names new executive director](#) – Kidney Care Partners

SOURCE: Kidney Care Partners

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#### [ASN among medical organizations seeking Congressional support for law updating Medicare payments for lab services](#)

The Saving Access to Laboratory Services Act (SALSA) was [introduced](#) in the Senate and the House and would reverse what proponents contend are years of Medicare payment cuts for medical laboratory services. Several organizations, such as the American Society of Nephrology are calling on Congressional leaders to pass the legislation, noting the next round of cuts taking effect next year would drop reimbursements by up to 15% for about 800 laboratory tests. The groups acknowledge Congress delayed cuts on three occasions in recent years but believe the bill offers a permanent solution for the medical lab sector.

SOURCE: American Society of Nephrology

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## Nephrology and Dialysis Practices (cont'd)

### ASN supports introduction of Senate bill to modernize organ procurement, transplantation network

The Senate [bill](#) is a companion to bipartisan legislation [introduced](#) in the House supporting an effort at modernizing the nation's Organ Procurement and Transplantation Network (OPTN) by bringing competition to the network and ensuring patients have "a first-class contractor for each function of the OPTN." In support the measure, the American Society of Nephrology says the OPTN initiative is vital for people with kidney failure as it'll "maximize patients' access to kidney transplantation." Meanwhile, a [study](#) by the Kidney Transplant Collective suggests [enacting](#) the Living Kidney Donor Support Act could save Medicare \$16 billion over 10 years by nearly tripling the number of donors from 6,000 to 17,000. The legislation would establish a national living kidney donor program and support donors by fully reimbursing expenses from the donation process.

SOURCE: American Society of Nephrology

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### Bipartisan House bill would ensure access to monitoring devices for home dialysis patients

Reps. Adrian Smith (R-NE) and Melanie Stansbury (D-NM) [introduced](#) a proposed amendment to the Social Security Act which would provide Medicare coverage for monitoring devices that detect and alarm hemodialysis patients and caregivers when a venous needle dislodgement occurs during home dialysis. The legislation, in the committee phase, has the support of the American Association of Kidney Patients, which says it'll improve safety and reduce barriers to home dialysis.

SOURCE: U.S. Congressman Adrian Smith

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### Satellite Healthcare lauded for providing opportunities for advancement to People of Color

Satellite Healthcare was one of 18 firms [named](#) to a list by non-profit Parity.org of best companies for people of color to advance. The SVP for People & Culture at the San Jose-based kidney care firm, Lisa Collings says the recognition rewards Satellite's efforts at ensuring staff members reflect the diversity of the patient community. She adds many strategic roles are occupied by people of color and a woman of color was named president of the company in 2021.

SOURCE: Parity.org

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## Dialysis & Nephrology DIGEST

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

#### Panoramic Health and Leading Houston Practice Partner to Drive Value-Based Care, Early Disease

Panoramic Health and Leading Houston Practice Partner to Drive Value-Based Care, Early Disease Detection, and Superior CKD Management for Patients in Texas

Panoramic Health, the leading integrated value-based kidney care platform and the country's largest physician-led CKCC participant, has further expanded its footprint in Texas through a partnership with Southwest Nephrology Associates, LLP ("SWN") of Houston, Texas.

SOURCE: Panoramic Health

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### VAC, ASC and Office-Based Labs

#### Feds sue PA radiologist for \$6.5M in fraudulent reimbursements over unnecessary peripheral artery procedures

The complaint contends an interventional radiologist from Radnor, PA and their affiliated practices and management entities issued over 500 claims to Medicare and the Federal Employees Health Benefits Program for medically unnecessary invasive peripheral artery procedures. The alleged incidents occurred between 2016 and 2019 and resulted in reimbursements of at least \$6.5 million. It's not the first time the specialist was sanctioned for performing unnecessary procedures, with multi-million dollar settlements reached in cases in [NY](#) and [LA](#).

SOURCE: U.S. Attorney's Office, Eastern District of Pennsylvania

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#### PE firm's agreement with USHV aims to advance value-based model for cardiovascular practices

US Heart & Vascular (USHV), a cardiology-focused physician practice management company operated by Ares Management, is partnering with Nashville-based investment firm Rubicon Founders. Financial terms of the partnership weren't disclosed but the additional funding will enable USHV to expand its network of value-based cardiology practices. In recent weeks, it unveiled deals with [HeartPlace](#), a Dallas-based cardiology practice with more than 20 locations and [Heartland Cardiology](#), a Wichita-based practice with four locations.

SOURCE: US Heart & Vascular

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

### CO company expands digital marketing service for OBLs to radiology practices

OBL Marketing says its online services for OBLs have been tailored to interventional radiologists and endovascular specialists and includes:

- Search engine optimization;
- Website development;
- Client review management; and
- Paid digital media.

SOURCE: OBL Marketing

For more information regarding our nephrology, dialysis and office-based lab experience, or if you would like to contribute to the newsletter, please contact:

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