



## **The Restore Protections for Dialysis Patients Act (H.R. 2199 and S. 1173)**

The American Nephrology Nurses Association (ANNA) is a nonprofit organization representing registered nurses and other healthcare professionals at all levels of practice. ANNA members work in settings such as chronic kidney disease management, peritoneal dialysis, hemodialysis, continuous renal replacement therapy, transplantation, industry, and government/regulatory agencies.

### **Background on the Issue**

More than 35 million Americans are living with chronic kidney disease (CKD), and 808,000 are living with end-stage kidney disease (ESKD), with nearly 68% requiring dialysis treatment. The Medicare program spends over \$130 billion on patients with kidney disease. Despite affecting just 1% of Medicare beneficiaries, ESKD accounts for nearly 7% of total Medicare spending. For ESKD patients, dialysis is the only life-sustaining treatment available unless a kidney transplant is received.

In June 2022, the U.S. Supreme Court ruled in *Marietta v. DaVita* that employer-based health plans can push ESRD patients off private health plans and prematurely onto Medicare. This ruling not only undermines forty-years of protections provided by Congress, but it also erodes patient choice and threatens to cause avoidable disruptions in life-saving care. Federal legislation is needed to protect dialysis care for nearly 550,000 Americans and bar insurers from discriminatory practices.

### **Overview of the Legislation**

The bipartisan *Restore Protections for Dialysis Patients Act* (H.R. 2199 and S. 1173) aims to restore longstanding patient protections for those living with ESKD. The House is led by Representatives Mike Kelly (R-PA-16), Yvette Clarke (D-NY09), Neal Dunn, (R-FL-2), Danny Davis (D-IL-7), John Joyce (R-PA-13), and Raul Ruiz (D-CA-36). The Senate bill is led by Senators Bill Cassidy (R-LA), Cory Booker (D-NJ), Kevin Cramer (R-ND), and Martin Heinrich (D-NM). The legislation would do the following:

- Restore Medicare Secondary Payer Law protections by clarifying that a health plan cannot discriminate against dialysis patients by providing fewer dialysis services compared to other covered services for chronic diseases.
- Protect the Medicare Trust Fund by preventing health insurance plans from shifting coverage responsibilities of ESRD treatment to the Medicare program.
- Ensure that ESRD patients can remain on their employer-sponsored health plans for 30 months before transitioning to Medicare as their primary insurer.

**Recommendation:** ANNA supports the *Restore Protections for Dialysis Patients Act* (H.R. 2199 and S. 1173) and encourages Members of Congress to cosponsor the legislation.