



Proposition 29

Requires On-Site Licensed Medical Professionals at Kidney Dialysis Clinics and Establishes Other State Requirements

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Purpose

Prop. 29 would implement new standards and regulations for dialysis clinics in California, including a requirement that dialysis clinics maintain at least one qualified health care worker on site while patients are being treated.

Background

Kidney disease occurs when a patient's kidneys stop functioning properly, and are increasingly unable to filter blood or transform waste into urine. As this condition develops into kidney failure, patients must have a kidney transplant or ongoing dialysis treatment to survive.¹ Patients generally receive dialysis treatment at least three times a week, with sessions lasting several hours, to keep their blood clean of waste and toxins.²

Around 80,000 patients receive dialysis treatment each month in California, and more than 75 percent of these patients receive treatment from one of two major for-profit dialysis clinics: DaVita, Inc. and Fresenius Medical Care.³ Dialysis clinics are often run as joint ventures between corporations and physicians, with both parties having an ownership stake.⁴ Under existing state law, dialysis clinics are not required to keep a doctor or any health practitioner on site, although the patient's physician is required to visit the patient at the clinic at least once a month.⁵

Prop. 29 is funded by the Service Employees International Union-United Healthcare Workers West (SEIU-UHW), a union representing health care workers. There are six hundred dialysis

¹ California Legislative Analyst's Office, "Proposition 29: Analysis of Measure (November 8, 2022 Election)," accessed August 22, 2022, <https://voterguide.sos.ca.gov/>.

² Legislative Analyst's Office, "Proposition 29: Analysis."

³ Legislative Analyst's Office, "Proposition 29: Analysis."

⁴ Carrie Arnold and Larry Price, "Should Your Kidney Doctor Have a Financial Stake in Dialysis?", *Scientific American*, December 15, 2022, <https://www.scientificamerican.com/article/should-your-kidney-doctor-have-a-financial-stake-in-dialysis1/>.

⁵ Legislative Analyst's Office, "Proposition 29: Analysis."

clinics in California, and they employ thousands of people.⁶ This is the third ballot measure in three election cycles that would require dialysis clinics to have a health practitioner present,⁷ although the current initiative is the first to allow nurses or physician assistants, in addition to physicians, to meet the in-person staff requirement.⁸ The two prior attempts, also sponsored by SEIU-UHW, were defeated: Prop. 8 (2018), 60% against; Prop. 23 (2020), 63% against. All three measures have been strongly opposed by the dialysis industry, whose business model and profitability would be substantially affected by this legislation.⁹

Neither Prop. 29 nor its predecessor measures would require the unionization of dialysis clinic workers. However, because dialysis companies have spent hundreds of millions of dollars opposing these measures, far more than SEIU-UHW has spent supporting them, opponents and some newspaper editorial boards argue that SEIU-UHW leaders have been leveraging the political and financial costs of these campaigns to pressure dialysis companies into agreeing to unionize their workforce.¹⁰ SEIU-UHW argues instead that the measure is about forcing companies to spend sufficient resources on patient care and safety.¹¹

Proposal

Prop. 29 would impose four new requirements for California dialysis clinics:¹²

First, it requires dialysis clinics to provide the same quality of care for all patients. There must be “no discrimination on the basis of who is responsible for paying a patient’s treatment,” i.e. whether the payer is an individual, private entity, insurer, Medicaid, Medicare, or any other source. This applies to in-clinic service and at the level of the governing body.

Second, it requires dialysis clinics to maintain on-site, at the clinic’s expense, at least one qualified physician, nurse practitioner, or physician assistant. This personnel must have at least

⁶ Victoria Colliver, “Inside a California Health Care Union’s Obsession with Kidney Dialysis Initiatives,” *Politico*, November 19, 2021, <https://www.politico.com/states/california/story/2021/11/19/inside-a-california-health-care-unions-obsession-with-kidney-dialysis-initiatives-1394715>.

⁷ Ben Christopher and Sameea Kamal, “California ballot measures: What you need to know,” *CalMatters*, Updated July 1, 2022, <https://calmatters.org/explainers/california-ballot-measures-2022/>.

⁸ Alexander Nieves et al., “California Ballot Tracker: Interest groups prepare for expensive 2022 fights,” *Politico*, accessed September 25, 2022, <https://www.politico.com/interactives/2022/california-ballot-measures-propositions-guide-2022/>.

⁹ Nieves et al., “California Ballot Tracker.”

¹⁰ Editorial: “Endorsement: On the ballot for a third time, Prop. 29 is a tired retread that could hurt dialysis patients,” *Los Angeles Times*, September 6, 2022, accessed September 23, 2022, <https://www.latimes.com/opinion/story/2022-09-06/endorsement-no-prop-29-dialysis-center-proposition-california>.

Editorial: “Vote no on union’s Prop. 29 attack on kidney dialysis firms,” *Mercury News*, July 28, 2022, accessed September 23, 2022, <https://www.mercurynews.com/2022/07/28/editorial-reject-unions-prop-29-attack-on-kidney-dialysis-firms/>.

¹¹ Camryn Pak, “California voters will weigh in on dialysis clinics for the third time in four years. Here’s what’s different this time,” *San Francisco Chronicle*, July 6, 2022, accessed September 23, 2022, <https://www.sfchronicle.com/bayarea/article/California-voters-will-weigh-in-on-dialysis-17288116.php>.

¹² Text of Proposition 29 (November 8, 2022 Election), accessed September 15, 2022, <https://voterguide.sos.ca.gov/>.

six months of experience with end-stage renal disease, and be present at all times that patients are being treated. Exceptions may be made if the clinic applies to the California Department of Public Health (CDPH) with proof of a health care professional shortage. Such an exception lasts a year, and the clinic must still provide access to a telehealth clinician.

Third, it requires dialysis clinics to report all dialysis-related infection data. Data will be posted quarterly on the CDPH website, accompanied by the identity of the “governing entity” of each dialysis clinic.

Fourth, it requires dialysis clinics to disclose to all patients the physicians who have an ownership interest in the clinic. Patients must be given a written list of all physicians who have a five percent or more ownership interest, directly or indirectly. This information must be provided when patients begin treatment and must be updated annually. This information must also be provided to the CDPH, for posting on its website.

Fiscal Impact

According to the Legislative Analyst's Office (LAO), the requirement that each clinic have a physician, nurse practitioner, or physician assistant would increase each dialysis clinic's costs by “several hundred thousand dollars annually on average.” Other requirements “would not significantly increase clinic costs.”¹³

As a result, the LAO has speculated that clinic operators might either try to negotiate increased rates with insurance companies and other payers, continue with lower profits, and/or close some clinics.¹⁴ Prop. 29 may increase health care costs for state and local governments due to higher payment rates and increased demand at hospitals if clinics close. This increase could total in the tens of millions of dollars annually, which would be less than 0.5 percent of the state's total General Fund spending.¹⁵

Supporters

Prominent supporters include:

- SEIU-UHW
- The California Democratic Party¹⁶

There is no official campaign website supporting Prop. 29.

¹³ Legislative Analyst's Office, “Proposition 29: Analysis.”

¹⁴ Legislative Analyst's Office, “Proposition 29: Analysis.”

¹⁵ Legislative Analyst's Office, “Proposition 29: Analysis.”

¹⁶ Jerry Howard, “Virtual sports betting the only proposition CADEM opposes for November,” *KDRV*, July 17, 2022, https://www.kdrv.com/news/virtual-sports-betting-the-only-proposition-cadem-opposes-for-november/article_10f6dc86-05f1-11ed-a10e-03f744f6d882.html.

As of September 15, 2022, supporters have raised approximately \$8.1 million.¹⁷ SEIU-UHW has provided nearly all the funding for the campaign.¹⁸

Arguments of Supporters

Supporters argue that Prop. 29 would:

- Maintain proper standards of care, lowering the risk of hospitalization and death.¹⁹
- Prevent discrimination against patients by allowing all types of insurance and requiring clinics to have a doctor or trained health care worker regardless of the clinic's location.²⁰
- Benefit patients without creating huge new costs since dialysis companies can implement the changes without interruptions to California's health care system or the demise of dialysis companies.²¹

Opponents

Prominent Opponents include:

- Dialysis companies, including DaVita and Fresenius Medical Care
- American Nurses Association
- California Medical Association²²
- California Republican Party²³

A longer list of opponents for Prop. 29 can be found at the official campaign website, <https://noprop29.com/who-we-are/>.

As of September 15, 2022, opponents have raised approximately \$86.3 million.²⁴ The largest contributors were DaVita, Inc., which contributed \$52.7 million, and Fresenius Medical Care, which contributed \$27.3 million.²⁵

¹⁷ California Secretary of State, "Quick Search: Amount Raised for Ballot Measures," accessed September 15, 2022, <https://powersearch.sos.ca.gov/quick-search.php>.

¹⁸ Nieves, "California Ballot Tracker."

¹⁹ Emanuel Gonzales, Reverend Kisheen Tulloss, Cecilia Gomez-Gonzalez, "Argument in Favor of Proposition 29 (November 8, 2022 Election)," California Official Voter Information Guide, accessed September 15, 2022, <https://voterguide.sos.ca.gov/>.

²⁰ Gonzales, Tulloss, Gomez-Gonzales, "Argument in Favor."

²¹ Gonzales, Tulloss, Gomez-Gonzales, "Argument in Favor."

²² No Prop 29, "Coalition," accessed September 25, 2022, <https://noprop29.com/who-we-are/>.

²³ California Republican Party, "Meet the CAGOP Endorsed Candidates," accessed September 25, 2022, <https://www.cagop.org/s/endorsements>.

²⁴ California Secretary of State, "Quick Search: Amount Raised for Ballot Measures," accessed September 15, 2022, <https://powersearch.sos.ca.gov/quick-search.php>.

²⁵ California Fair Political Practices Commission, "November 2022 General Election: Top Contributors," accessed September 15, 2022, <https://www.fppc.ca.gov/transparency/top-contributors/nov-22-gen.html>.

Arguments of Opponents

Opponents argue that Prop. 29 would:

- Needlessly add health care professionals and take these professionals from other forms of health care.²⁶
- Cause up to half of the state's clinics to cut services or close entirely.²⁷
- Increase state health care costs by hundreds of millions of dollars, leading to higher insurance premiums for consumers and higher taxes to support government-provided health care.²⁸

Conclusion

A YES vote on Prop. 29 would increase staffing and data reporting requirements at dialysis clinics in California.

A NO vote on Prop. 29 would maintain current clinic standards.

Date: October 4, 2022

²⁶ No Prop. 29, "Get the Facts," accessed September 22, 2022, <https://noprop29.com/get-the-facts>.

²⁷ No Prop. 29, "Get the Facts."

²⁸ No Prop. 29, "Get the Facts."