



## Proposition 8

### Limit on Dialysis Clinic Revenue

Placed on the Ballot by Petition Signatures

Research Assistant: Ben McAnally '21

---

#### **Purpose**

Proposition 8 would use a formula to limit revenues of kidney dialysis clinics and could require clinics to pay rebates to insurance providers or other parties that pay for dialysis.<sup>1</sup>

#### **Background**

Healthy kidneys filter a person's blood to remove waste and fluids, depositing them in the bladder and to be discharged as urine. Kidney or renal disease refers to when the kidneys do not function properly. They can cease to function entirely in kidney failure, and the patient requires a kidney transplant or a treatment known as dialysis to survive.

Dialysis mimics healthy kidney function, removing waste, excess fluids, and chemicals from a person's bloodstream. This is usually accomplished through hemodialysis, where blood is removed from the body, filtered through a machine, and returned to the body. According to the National Kidney Foundation, hemodialysis treatments typically last about four hours and are required about three times a week, and most are performed in clinics designed for the procedure.<sup>2</sup>

As of May 2018, there were 588 licensed chronic dialysis clinics (CDCs) in California, serving around 80,000 patients each month. Two private for-profit companies own 72 percent of CDCs in California, DaVita Kidney Care, and Fresenius Medical Care.<sup>3</sup>

The Legislative Analyst's Office estimates that CDCs in California have revenues of \$3 billion annually. Their revenue comes from payments from a few main types of insurance payers, namely Medicare, Medi-Cal, and group and individual private health insurance. The CDCs charge Medicare and Medical rates that are relatively close to the cost of care. Private

---

<sup>1</sup> <https://calmatters.org/articles/california-ballot-measures-2018-election/>

<sup>2</sup> <https://www.kidney.org/atoz/content/hemodialysis>

<sup>3</sup> <https://lao.ca.gov/BallotAnalysis/Proposition?number=8&year=2018>

insurance providers, however, usually pay multiple times what government insurance providers pay for dialysis treatment.<sup>4</sup>

### Proposal

Proposition 8 would limit the revenues of California dialysis clinics by a formula and could require them to pay rebates to certain parties who pay for dialysis treatment. The formula establishes a revenue cap equal to 115 percent of specified “direct patient care services costs” and “health care quality improvement costs.”<sup>5</sup>

The proposition also requires clinics to report their annual costs, revenue, and patient charges to the state and prohibits clinics from discriminating against patients based on their source of payment for care.<sup>6</sup>

### Fiscal Impact

The Legislative Analyst’s Office estimates that Prop. 8 will have an annual fiscal impact, ranging from a net positive impact in the low tens of millions to a net negative impact in the low tens of millions. The exact impact is difficult to predict since it is uncertain which costs are allowable and how the CDCs will respond to the measure. The measure will impose new administrative responsibilities on the California Department of Public Health, estimated to cost in the low millions of dollars annually. The measure requires DPH to adjust licensing fees paid by CDCs to cover these costs.<sup>7</sup>

### Supporters

The Yes on 8 campaign is supported by a coalition that includes:

- California Democratic Party
- California Labor Federation
- Californians for Disability Rights
- CalPERS
- Dialysis Advocates, LLC
- National Association of Social Workers – California
- Congress of California Seniors
- California Alliance for Retired Americans
- Greater Sacramento NAACP Branch<sup>8</sup>

---

<sup>4</sup> <https://lao.ca.gov/ballot/2018//prop8-110618.pdf>

<sup>5</sup> [https://www.oag.ca.gov/system/files/initiatives/pdfs/17-0014%20%28Dialysis%20Clinic%20Pricing%29\\_0.pdf](https://www.oag.ca.gov/system/files/initiatives/pdfs/17-0014%20%28Dialysis%20Clinic%20Pricing%29_0.pdf)

<sup>6</sup> <https://www.kidney.org/news/national-kidney-foundation-statement-california-ballot-initiative-fair-pricing-dialysis-act>

<sup>7</sup> <https://lao.ca.gov/BallotAnalysis/Proposition?number=8&year=2018>

<sup>8</sup> <https://www.yeson8.com/about/>

Californians for Kidney Dialysis Patient Protection, a campaign committee organized by SEIU-UHW West, is raising funds and organizing support for the initiative. It has raised \$6.02 million for the campaign, with SEIU-UHW West donating over 99 percent of the total funds.<sup>9</sup>

### Arguments of Supporters

Supporters say Prop. 8 would:

- Increase the percent of dialysis clinic profits used for patient care, which currently stand at 73 percent.<sup>10</sup>
- Lower insurance premiums for all Californians, 3,800 of which are currently required to offset the cost of one dialysis patient.<sup>11</sup>
- Improve patient care in for-profit dialysis clinics, which have had higher mortality and hospitalization rates than non-profit clinics.<sup>12</sup>

### Opponents

The No Prop. 8 Campaign is supported by a coalition that includes:

- American Nurses Association, CA
- California Medical Association
- American College of Emergency Physicians, CA
- California Hospital Association
- Renal Physicians Association
- California Dialysis Council
- DaVita Kidney Care
- Fresenius Medical Care (FMC)
- California State Conference NAACP
- California Taxpayer Protection Committee
- California Chamber of Commerce<sup>13</sup>

Patients and Caregivers to Protect Dialysis Patients, a campaign committee for the opposition, was organized by a statewide association of dialysis clinics, mostly represented Fresenius Medical Care North America and DaVita. The committee raised \$18.02 million as of July of 2018, with over 99 percent of the funding coming from Fresenius and DaVita.<sup>14</sup>

---

<sup>9</sup> <http://cal-access.sos.ca.gov/Campaign/>

<sup>10</sup> [https://ballotpedia.org/California\\_Proposition\\_8,\\_Limits\\_on\\_Dialysis\\_Clinics%27\\_Revenue\\_and\\_Required\\_Refunds\\_Initiative\\_\(2018\)#Opposition](https://ballotpedia.org/California_Proposition_8,_Limits_on_Dialysis_Clinics%27_Revenue_and_Required_Refunds_Initiative_(2018)#Opposition)

<sup>11</sup> <https://californiahealthline.org/news/calif-bill-targets-profiteering-in-addiction-treatment-dialysis-industries/>

<sup>12</sup> <http://www.latimes.com/business/hiltzik/la-fi-hiltzik-dialysis-20180720-story.html>

<sup>13</sup> <https://noprop8.com/>

<sup>14</sup> [https://ballotpedia.org/California\\_Proposition\\_8,\\_Limits\\_on\\_Dialysis\\_Clinics%27\\_Revenue\\_and\\_Required\\_Refunds\\_Initiative\\_\(2018\)#Opposition](https://ballotpedia.org/California_Proposition_8,_Limits_on_Dialysis_Clinics%27_Revenue_and_Required_Refunds_Initiative_(2018)#Opposition)

## Arguments of Opponents

Opponents say Prop. 8 would:

- Only qualify 69 percent of clinic costs, not covering many administrative costs.<sup>15</sup>
- Force 83 percent of dialysis facilities to operate at a net loss, result in clinic closures and reduced patient access.<sup>16</sup>
- Be dangerous, as missing one dialysis treatment results in an increased mortality risk of 30 percent.<sup>17</sup>

## Conclusion

Voting Yes on Prop. 8 would limit the revenues of dialysis clinics by a formula and could require the clinics to pay rebates to certain parties (mostly health insurance companies) that pay for dialysis treatment.<sup>18</sup>

Voting No on Prop. 8 would not limit the revenues of dialysis clinics and would not require them to pay rebates.

**For more information on Proposition 8, visit:**

[www.roseinstitute.org](http://www.roseinstitute.org)

[www.yeson8.com](http://www.yeson8.com)

<https://noprop8.com>

<sup>15</sup> [HTTPS://CALMATTERS.ORG/ARTICLES/CALIFORNIA-BALLOT-MEASURES-2018-ELECTION/](https://CALMATTERS.ORG/ARTICLES/CALIFORNIA-BALLOT-MEASURES-2018-ELECTION/)

<sup>16</sup> [https://ballotpedia.org/California\\_Proposition\\_8,\\_Limits\\_on\\_Dialysis\\_Clinics%27\\_Revenue\\_and\\_Required\\_Refunds\\_Initiative\\_\(2018\)#Opposition](https://ballotpedia.org/California_Proposition_8,_Limits_on_Dialysis_Clinics%27_Revenue_and_Required_Refunds_Initiative_(2018)#Opposition)

<sup>17</sup> <https://lao.ca.gov/BallotAnalysis/Proposition?number=8&year=2018>

<sup>18</sup> <https://lao.ca.gov/ballot/2018//prop8-110618.pdf>