

Felisa Hagins, Political Director
Service Employees International Union, Local 49
SB 900
March 25, 2019



Testimony to the Senate Committee on Health Care in support of SB 900

Chair Senator Monnes Anderson and members of the Committee,

My name is Felisa Hagins and I am the Political Director for the Service Employees International Union, Local 49. SEIU Local 49 is comprised of healthcare and property service workers throughout Oregon and SW Washington. When combined with SEIU Local 503, we are the largest union in the state representing over 80,000 public and private sector workers. Our mission as a union is to achieve a higher standard of living for our members, their families, and dependents by elevating their social conditions and by striving to create a more just society.

I am here today to testify in support of SB 900, which will help control health care costs by preventing dialysis companies from profiteering when they encourage their own patients to obtain health insurance that is paid for by a financially interested third party. SEIU approaches health care policy from the perspectives of our members. This includes people who work in health care settings delivering critical care, members who collectively are significant purchasers privately and through PEBB, and of course SEIU members and their families who use the care system as patients. On behalf of these members and all Oregonians who struggle to access affordable care, I am here today to testify in support of SB 900.

Two publicly traded for-profit dialysis companies own 90% of the dialysis clinics in Oregon. This immense level of market consolidation gives the companies – Fresenius and DaVita – considerable market power relative to consumers and health insurance companies. Using this market power, the major dialysis companies negotiate commercial reimbursement rates much higher than rates paid by Medicare or Medicaid.

Given the cost and frequency of dialysis care, a commercially insured patient can easily be worth more than \$100,000 in additional profit for a dialysis clinic as compared to a patient covered by Medicare or Medicaid. This provides a strong incentive for dialysis clinics to shift their payer mix to include additional commercial patients whenever possible.

As one way to increase the number of commercially insured patients, the dominant dialysis companies give hundreds of millions of dollars each year to a nonprofit called the American Kidney Fund, and the American Kidney Fund then purchases commercial insurance products for dialysis patients whose treatment would otherwise be paid for by Medicare or Medicaid. This arrangement is driving up health insurance rates, which transfers costs onto companies that purchase health insurance for their employees and onto individuals who purchase health insurance in the individual market.

Most dialysis patients are covered by Medicare because end stage renal disease is a qualifying condition for Medicare eligibility, meaning patients on dialysis are eligible for Medicare even if they are under age 65. However, private insurance typically pays at least three times Medicare rates, and sometimes much more.

It is illegal for dialysis clinics to pay their patients' insurance premiums directly, so the major dialysis companies make large donations to the American Kidney Fund, and the AKF gives the money to dialysis patients as grants, for the express purpose of paying commercial health insurance

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premiums.ⁱ In October 2017, DaVita, which owns 37% of the dialysis clinics in Oregon, disclosed that it was providing treatment to 4,000 AKF grant recipients nationally in the group market and 1,800 in the individual market. Together these 5,800 patients generate between \$495 and \$540 million in profit for DaVita.ⁱⁱ

The lucrative practice of steering patients away from public programs places patients at risk of harm, skews risk pools for ACA exchange plans, destabilizes healthcare marketplaces and drives premium rates for commercial and ACA exchange plans higher.

This is not the first time that the market distortion created by the dialysis companies and the AKF has been investigated in Oregon. In 2011, *The Oregonian* reported that the AKF was paying premiums for 70% of the dialysis patients in the Oregon Medical Insurance Pool and that the high risk pool was paying \$300,000 annually for each patient's dialysis care, as compared to \$82,000 that Medicare would have reimbursed for the same patient. Over a span of three years, OMIP costs for dialysis grew from \$7 million annually to \$20 million.ⁱⁱⁱ Following public hearings and complaints from OMIP board members, the major dialysis companies agreed to reduce rates charged to OMIP participants, but the larger market distortion created by dialysis patients whose commercial premiums are paid by the AKF remains.

Now we have a new opportunity to stop the profiteering caused by this market distorting practice.

SB 900 would regulate third party premium assistance from financially interested dialysis companies through better transparency and reporting, patient protections, and limited reimbursements that remove undue financial incentives from the system.

There are some patients who genuinely need premium assistance. SB 900 therefore does not end the practice in its entirety, but instead sets parameters to end abusive practices while protecting patients. It requires a financially interested payer to provide assistance for the full plan year and not condition eligibility on the patient's use of a specific dialysis clinic, thereby ensuring that patients whose dialysis clinic does not contribute to the AKF can still obtain premium assistance.

If the dialysis clinic does contribute to the AKF or another charity providing premium assistance to one of the clinic's patients, treatment for that patient would be reimbursed at the Medicare reimbursement rate rather than the commercial rate.

This will reduce the incentive to enroll patients in more lucrative commercial coverage and protects insurance markets and premium payers.

We urge you to support SB 900, as it is a careful balance between protecting vulnerable dialysis patients while at the same time protecting consumers from profiteering by large for-profit dialysis companies.

Thank you for the opportunity to testify. I would be happy to answer any questions.

Felisa Hagins
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ⁱ Katie Thomas and Reed Abelson, *Kidney Fund Seen Insisting on Donations, Contrary to Government Deal*, THE NEW YORK TIMES (December 25, 2016), https://www.nytimes.com/2016/12/25/business/kidney-fund-seen-insisting-on-donations-contrary-to-government-deal.html?_r=0,

ⁱⁱ <http://pressreleases.davita.com/2017-10-10-DaVita-Provides-Disclosures-Regarding-Charitable-Premium-Assistance>

ⁱⁱⁱ https://www.oregonlive.com/health/2011/11/oregon_insurance_program_hit_b.html