

City Attorney's Impartial Analysis of Measure F

This initiative ordinance would amend the Palo Alto Municipal Code to establish regulations limiting the amount and categories of costs that certain hospitals, medical clinics and other health care providers (collectively, "Health Care Providers" or "Providers") in Palo Alto may charge patients, insurance companies, and other payers, excluding government payers.

Health care regulation has largely been the province of the state and federal governments. Palo Alto, like other cities, does not currently regulate health care pricing.

The proposed ordinance would amend the Palo Alto Municipal Code to require the City to regulate, administer and enforce health care pricing in Palo Alto, as follows.

First, the ordinance would limit the amount that Health Care Providers may charge payers to 115% of the costs incurred for what the ordinance describes as costs of direct patient care and quality improvement. These chargeable costs would be restricted to costs incurred and necessary to utilize electronic health information, support health information technologies, train non-managerial personnel, and provide patient-centered education and counseling (collectively, "quality improvement costs"), as well as costs for non-managerial staff compensation and benefits, staff training and development, pharmaceuticals and supplies, facility costs, laboratory testing, and depreciation and amortization of certain property (collectively, "cost of direct patient care"). Other costs incurred by Providers could not be charged to payers and would need to be funded by other means or absorbed by the Provider.

Providers could petition the City to expand the cost categories chargeable to payers, which could be granted only upon the City making specified findings. Providers could also petition the City to increase the amount chargeable above 115% of allowed costs if the City finds the limit to be confiscatory or unlawful.

Second, the ordinance would require Providers to determine each fiscal year the allowable charge for each patient and refund or reduce charges to payers if they exceed the limit. Providers would be subject to fines for failure to timely make the refunds or reductions. Providers would also be required to annually report information to the City to demonstrate compliance.

Third, the ordinance would require the City to appropriate sufficient funds to implement and enforce the ordinance. Program costs are not yet known but would be substantial. Enforcement could occur through criminal, civil or administration action.

The ordinance would be effective January 1, 2019.

Measure F was placed on the ballot by initiative petition signed by the requisite number of City voters.

A vote "For the Ordinance" will amend the Palo Alto Municipal Code to establish health care pricing regulations. A vote "Against the Ordinance" will not amend the Municipal Code.

This ordinance will become effective if a majority of those voting on the measure vote in favor.

The validity of Measure F was the subject of a pre-election lawsuit. The court determined that the legal questions about Measure F could be decided after the election if the measure is approved. If Measure F passes and a legal challenge is filed, the outcome of such a lawsuit is uncertain.

Dated: August 21, 2018



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