

★ Argument in Favor of Proposition 46 ★

PROPOSITION 46 WILL SAVE LIVES.

Preventable medical errors kill up to 440,000 people each year, making medical negligence the third leading cause of death in this country behind only heart disease and cancer.

Bob Pack is sponsoring Proposition 46 because a drugged driver killed Bob's children after multiple doctors recklessly prescribed narcotics to her. Bob wants to prevent such a tragedy from happening to other families. Proposition 46 will save lives in three ways:

1. PROPOSITION 46 WILL DETER NEGLIGENCE BY HOLDING DOCTORS ACCOUNTABLE FOR MEDICAL ERRORS.

- It holds doctors accountable when they commit negligence, including while impaired by drugs or alcohol, by adjusting for inflation the current cap of \$250,000 on pain and suffering damages for victims of medical negligence like Troy and Alana Pack.
- The Legislature set the cap in 1975 and has never adjusted it for inflation. While the cost of everything else has increased significantly since then, the value of a life has not increased one penny in 39 years.
- Proposition 46 retains the current limit on attorneys' fees in medical negligence cases.

2. PROPOSITION 46 WILL SAVE LIVES BY CRACKING DOWN ON PRESCRIPTION DRUG ABUSE.

- A recent *LA Times* investigation showed that drugs prescribed by doctors caused or contributed to nearly half of the accidental prescription overdose deaths in four Southern California counties.
- Proposition 46 requires doctors to check the existing statewide database before prescribing addictive painkillers and other narcotics to a first time patient.

3. PROPOSITION 46 WILL SAVE LIVES BY PROTECTING PATIENTS FROM IMPAIRED DOCTORS.

- The California Medical Board reported that experts estimate nearly one in five health professionals suffers from substance abuse during their lifetimes.

- Doctors under the influence of drugs and alcohol cause medical errors, but most substance abuse goes undetected because doctors are not tested.

PROPOSITION 46 REQUIRES:

- Random drug and alcohol testing of doctors using the same proven federal testing program that works with pilots.
- Suspension of a doctor who tests positive and disciplinary action if the doctor was impaired on duty.

THE FACTS:

- Millions of Californians are drug tested at work yet California doesn't require doctors to be tested.
- Drug testing is required for pilots, bus drivers, and other safety workers—but not doctors.
- Drug testing can save lives. That's why random drug testing of doctors is supported by leading medical safety experts, consumer advocates, the Inspector General of the federal agency responsible for overseeing health care, and by doctors who themselves have abused drugs.
- Dr. Stephen Loyd, an internist who practiced medicine while abusing drugs and who is now recovering, said: "I worked impaired every day; looking back, it scares me to death, what I could have done. My patients and my colleagues never knew I was using."

Join Bob Pack, consumer groups, health care professionals and victims of medical negligence in voting YES on Proposition 46 (www.yeson46.org) so we can improve patient safety, hold doctors accountable, and save lives by making sure no one has an intoxicated doctor treating them or a loved one.

Bob Pack, Father of victims of preventable medical error, Troy and Alana Pack

Carmen Balber, Executive Director
Consumer Watchdog

Henry L. "Hank" Lacayo, State President
Congress of California Seniors

★ Rebuttal to Argument in Favor of Proposition 46 ★

Prop. 46 is before you for one reason—to make it easier for trial lawyers to sue doctors and profit from these lawsuits. It's simple. When you increase the cap, you automatically increase trial lawyer profits.

46's sponsors claim this is about drug testing doctors . . . but the lawyers who wrote and funded this measure have NEVER gone to the State Legislature to propose drug testing of doctors.

They have, however, sponsored 3 different proposals to get the State Legislature to raise the cap on lawsuits and make it easier to sue our family doctors. All 3 times the Legislature rejected them. And no less than 10 times, trial lawyers have asked the courts to strike down the cap. Each time, the courts, including the California Supreme Court, found the cap serves its purpose by keeping costs contained, which preserves your access to affordable healthcare.

Lawyers paid to put this on the ballot, making the bold claim it will "save lives." They cite false statistics to defend this political

rhetoric. Much as we wish a ballot initiative could actually save lives, this one will not.

But doctors and nurses DO save lives. They take a solemn oath to care for their patients. They believe 46 would force many California doctors, specialists and healthcare professionals to close their practices. How can that benefit anyone?

Please go to www.NoOn46.com to see why over 500 different community based groups throughout the state, concerned about access to healthcare for everyone, say VOTE NO on 46.

Tricia Hunter, RN, Executive Director
American Nurses Association, California

Tom Scott
California Citizens Against Lawsuit Abuse
Betty Jo Toccoli, President
California Small Business Association

★ Argument Against Proposition 46 ★

California special interests have a history of qualifying ballot propositions that appear to be about one thing but are really about another. Here's another one.

Proposition 46 uses alcohol and drug testing of doctors to disguise the real intent—to increase a limit on the amount of medical malpractice lawsuit awards.

This measure does three things:

- Quadruples the limit on medical malpractice awards in California, which will cost taxpayers hundreds of millions of dollars every year, and cause many doctors and other medical care professionals to quit their practice or move to places with lower medical malpractice insurance premiums.
- Threatens your privacy by requiring a massive expansion of the use of a personal prescription drug database.
- Requires alcohol and drug testing of doctors, which was only added to this initiative to distract from the main purpose.

Vote No on Prop. 46

This measure is not on the ballot because someone thinks we need to drug test doctors. Prop. 46 was written and paid for exclusively by trial lawyers who will profit from its passage. If they get their way, malpractice lawsuits and trial attorney awards will skyrocket. And we will pay the costs.

Raising the Limit on Medical Malpractice Awards

Lawyers want to quadruple the limit of awards that the state allows for medical malpractice lawsuits. Here are the consequences:

- *Increased Health Insurance Costs:* If medical malpractice awards go up, health insurance companies will raise their rates to cover their increased costs. When health care insurance companies raise their rates, we all pay more in health care premiums.
- *Increased Taxes and Fees:* State and county hospitals pay their own medical malpractice insurance premiums. When

health insurance companies raise their rates, state and county governments will have to find a way to cover the new costs. They will either cut services or raise taxes and fees. In fact, the independent Legislative Analyst estimates the increased state and local costs to be “hundreds of millions of dollars . . .” We will pay either way.

- *Access to Health Care Reduced:* If California raises their cap, many doctors and other health care professionals will move to states with lower malpractice insurance rates. Some will give up their practice. This could cause you to lose your doctor. Which is why the California Association of Rural Health Clinics opposes Prop. 46.

Prescription Drug Database

Prop. 46 mandates that doctors consult an online database of Californians' personal prescription drug history. This database is controlled by the state government in an age when it's already too easy for government to violate our privacy.

Government websites, including the DMV and the Pentagon, have a history of being hacked. Vote No to prevent reliance on another computer database that no one can assure will be secure.

In Summary

The consequences of Prop. 46 far outweigh any benefits: higher costs of health care, higher taxes, lost access to doctors, loss of privacy, and risking that our personal prescription drug history will be compromised and made available for anyone to see.

Please vote no.

Donna Emanuele, RN, President
California Association of Nurse Practitioners
Ann-Louise Kuhns, President
California Children's Hospital Association
Stuart Cohen, MD, Chair
American Academy of Pediatrics, California

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★ Rebuttal to Argument Against Proposition 46 ★

As mothers who lost children to medical negligence, we want to prevent our tragedies from happening to others, but insurance companies are spending millions against Proposition 46's reforms.

Please consider the facts:

Requiring random drug and alcohol testing of doctors will address a serious problem reported by *USA Today*: 103,000 U.S. medical professionals annually abuse illicit drugs.

That's why Mothers Against Drunk Driving Founder Candace Lightner supports Proposition 46.

The U.S. Health and Human Services Department's Inspector General has called for testing doctors.

Pilots, hospital workers, and millions of Californians are tested, but California doesn't require doctors to be tested.

Requiring doctors to check California's drug database before prescribing new patients narcotics will:

Protect privacy: The existing Department of Justice database is secure. That's why Consumer Watchdog supports 46.

Save money: The U.S. Health and Human Services Department's former insurance oversight director estimates it can save California hundreds of millions annually.

Adjusting the \$250,000 cap on compensation for human suffering in medical negligence cases for 39 years of inflation will fairly value lives and hold doctors accountable.

Barbara Boxer, Nancy Pelosi and Erin Brockovich support 46 because the cap disproportionately harms women and children.

Proposition 46 *won't limit access to health care*: statistics show that people in most states *without* caps have better access to doctors than Californians do.

California's Insurance Commissioner *holds down doctors' insurance costs* by regulating rates.

Up to 440,000 people die annually from preventable medical errors. *Help us save lives—VOTE YES.*

Sarah Hitchcock-Glover, R.N., Mother of victim of preventable medical error, Adam Glover
Alejandra Gonzalez, Mother of victim of preventable medical error, Mia Chavez
Jennifer Westhoff, Mother of victim of preventable medical error, Morgan Westhoff