

JOINT STATEMENT OF SHC AND LPCH MEDICAL STAFF EXECUTIVE COMMITTEES IN OPPOSITION TO PROPOSITION 46

The Medical Staff Executive Committees of the Stanford Hospital and Clinics and the Lucile Packard Children's Hospital (the "MECs"), representing the over 2500 physicians who care for patients at these hospitals and clinics, formally oppose Proposition 46 dealing with patient drug checks, physician screening and medical malpractice lawsuits. The MECs believe that this initiative will compromise patient privacy, limit access to needed healthcare services, increase healthcare costs, foster baseless lawsuits, and create significant inefficiencies.

Specific aspects of the ballot initiative which raise concerns for the MECs are:

1. Physicians must consult a State prescription drug data base the first time that prescriptions of certain controlled substances are issued to a patient. This will delay necessary treatment (for example in the emergency setting), create significant inefficiencies, and compromise patient privacy. It also involves a data base of questionable accuracy and ability to make a timely response.

2. Hospitals must implement programs to perform drug and alcohol testing on all physicians on a random basis. This also severely impacts privacy rights and imposes a huge administrative and financial burden on hospitals. Both Stanford and Packard, as well as many other hospitals and their physician staffs, already have mandatory testing programs for suspected cases of impairment.

3. A physician who tests positive on a drug or alcohol screen must be reported to the licensing agency (Medical Board of California) which "shall" suspend the physician's license while conducting an investigation. There is no clear exception for a physician who is receiving medications for a legitimate reason (e.g. treatment).

4. Physicians are encouraged to report possible cases of impairment of colleagues to the Medical Board of California. This carries the risk of improper reporting and ignores current State licensing law which requires that hospitals create and have in place a functioning committee to deal with such issues within the physician staff structure.

5. The current statutory limits on "pain and suffering" damage awards in medical malpractice cases are raised from \$250,000 to over \$1 million dollars with annual cost of living increases. Currently a patient or family may recover all reasonable economic damages (lost income, cost of care, etc.) occasioned by a physician's negligent acts plus the \$250,000 for non-economic damages. The current approach represents an appropriate balancing of patient compensation and containing healthcare costs. Increased limits on non-economic damages will create incentives for attorneys to pursue lawsuits regardless of merit, as has occurred in other states without limits similar to those in California.

6. The overall economic impact of the ballot initiative is estimated by the State Attorney General's Office to be as high as "hundreds of millions of dollars" imposed on State and Local governments. Costs to private health care providers are expected to be equally significant.

The areas covered by Proposition 46 may each be worthy of reasoned discussion. But in combined form, stated in language which is both unclear and confusing throughout this initiative, they do a disservice to both patients and healthcare providers. Therefore, the MECs are taking a strong position against Proposition 46 and urge others to do likewise.