

## QUESTIONS AND ANSWERS REGARDING PROPOSITION 46-THE MICRA REVISION PROPOSITION

The following are designed to assist Medical Staff members in responding to or initiating discussion of Proposition 46 with patients and others. They can be used as you wish to assist you. Naturally, your own views are most important and these are only suggested for your use as you see fit.

1. Caller/patient/acquaintance asks if you support or oppose Proposition 46. The remaining Q&As assume an opposition position.

2. Why are you opposed:

The Proposition is confusing, poorly drafted, and poses a threat to both personal privacy and good medical practices. It also has the potential of substantially increasing health care costs, something that has to be avoided.

3. How does it threaten personal privacy?

In two ways. Before I can order a prescription for certain drugs for a patient for the first time, I have to review a State maintained data base regarding the prescription history of that patient. So I am essentially looking at my patient's history for care I did not provide and which may be irrelevant to my care and treatment. That makes me very uncomfortable. I am also concerned with the reliability of the information maintained by the State, as I have been told there are accuracy issues.

Second, I am encouraged to report to the California physician's licensing board, the Medical Board of California, any information that "may" indicate that one of my colleagues was impaired. I am also concerned with such reporting, particularly given how vague the standard about reporting anything that "may indicate" impairment is in the Proposition. Here again the language of the Proposition bothers me and carries the risk of wrongly harming an individual physician.

4. How do you see the Proposition adversely affecting care and treatment of patients?

Again, in two ways, and both related to what I have already discussed. If I have to wait for a State data base confirmation of prescription history on a patient, that could well delay my provision of needed medical care and treatment. And if I am reporting my colleagues for

suspected impairment, such an action cuts against the important team approach that we emphasize in trying to provide high quality care to our patients.

5. Doesn't the Proposition safeguard patients by requiring hospitals to do random drug screens on all physicians who provide care in the hospital?

Yes, but that is problematical as well. First, here again we have substantial privacy rights which are being infringed on a "random" basis, without any indication of an issue of drug use. Second, implementation would be extremely difficult and very costly. Third, SHC, LPCH and every hospital where I practice already have detailed and confidential programs to test physicians quickly in any case of suspected impairment, address any issue through mandatory referrals for treatment, and monitor the physician's treatment and recovery through committees of our Medical Staff. I feel this is the correct, and confidential, way to address these issues.

6. A major part of Proposition 46 raises the limit on "pain and suffering" damages to victims of physician malpractice. Are you opposed to that and, if so, is it just because you worry that your malpractice premiums will go up?

I understand that feeling, but it is not the reason for my concern with the damages revision in Proposition 46. Right now, under current law, a patient victimized by physician malpractice can recover any and all economic damages, such as lost wages or income, costs of additional care and costs of dealing with any ongoing disability. In addition, the patient may recover \$250,000. I think the current system is fully adequate to fairly treat a victim of malpractice. And I do believe the substantial increase in the damages limit will encourage lawsuits which may not be justified and will further raise the costs of healthcare.

7. Anything else?

Yes, first some of the issues in Proposition 46 are worth serious discussion. But putting them all together in one bill keeps us from addressing important individual issues. If each issue were discreetly handled, well thought out, and clearly presented, it might change my views. But that is not how Proposition 46 is being presented to us.

Second, I am concerned with overall costs. Healthcare is too expensive already. And the State Legislative Analyst's office has estimated that the costs of Proposition 46 may well run into hundreds of millions of dollars. I simply cannot support a Proposition that is as flawed as I believe Proposition 46 to be, and is so tremendously costly at the same time.