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Dear Mr. Soltani, Mr. Villagra, and Ms. Chavez-Peterson,

As the author of Proposition 46, I was dismayed to read comments in the Sacramento Bee by the ACLU's Natasha Minsker indicating that the American Civil Liberties Union opposes the initiative because it includes drug and alcohol testing for some doctors who are not in "safety sensitive" positions. She also said Prop 46 goes too far because it would put a doctor who failed a sobriety test at risk of losing their medical license.

That stand raises several questions I believe Ms. Minsker and the ACLU should answer. How can the ACLU contend that some doctors are not in "safety sensitive" positions? Explain to me and the voters of our state when and in what circumstances a doctor is not in a "safety sensitive" position. Likewise, please spell out for me and the voters in what circumstances and why a doctor who practices while drunk or on drugs should not be potentially at risk of losing their medical license.

Your stance strains credulity. I believe Ms. Minsker and the ACLU owe voters an answer to these questions.

Whether in an operating room or at a hospital bedside or in an exam room, every physician who has privileges to admit patients to a hospital ultimately holds a life in their hands. As such,



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each and every physician in this state and nation should perform their tasks – whether diagnostic, therapeutic or surgical – in a sound mind and in complete sobriety.

The stand taken by the ACLU runs counter not just to public opinion but also to abundant evidence demonstrating that physicians do in fact suffer substance abuse problems at an alarming rate – and to some of the top medical experts in the U.S. who support random testing of doctors for substance abuse.

As was reported recently by USA Today, more than 100,000 health care professionals currently are battling substance abuse problems around the nation. Add to that list those abusing alcohol, and the number swells to more than 500,000. California's own Medical Board has estimated that 18% of the state's physicians will suffer substance abuse sometime during their lives, and that up to 2% could be abusing drugs or alcohol at any one time.

There are stories aplenty of physicians who have battled drug abuse – dozens upon dozens are documented [here](#). The worst cases involve patients who suffered grievous injury or death at the hands of physicians battling substance abuse.

Lloyd Monserratt was a UCLA graduate and a rising star in California politics, when he lost his life at age 36 after a gross surgical error to address a bowel problem allowed a deadly infection to spread through his body. The infection was overlooked until it was too late. His surgeon was later found to have a record of past arrests, including felony crack cocaine possession.

Tina Minasian had abdominal surgery in 2002 that left her suffering for months because of an infection spawned during the procedure. She survived but was left in pain and mutilated at the site of the surgery. Minasian only later discovered that her doctor was an alcoholic, participating in the erstwhile diversion program run by the Medical Board of California. Among the things that Minasian did not know was that the appointed “monitor” of the doctor's compliance and sobriety was the doctor's own office manager – and that the office manager repeatedly covered up his ongoing drinking at the order of the doctor. That failure to provide effective treatment was one of numerous examples of malfeasance that ultimately prompted the state Medical Board to scuttle the physician diversion program. Minasian's physician, meanwhile, continued his surgical practice for a decade after her botched surgery, until he finally lost his license in 2012.

These stories and statistics highlight an inconvenient truth in our health care system: Doctors can be drunks; they can be troubled by drug abuse. And right now it's nearly impossible to detect such behavior, let alone deter it.



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As a society, we need to provide better protections to ensure patients don't become victims of MDs under the influence. Many medical experts agree. Earlier this year, Daniel R. Levinson, the Inspector General of the U.S. Department of Health and Human Services, called for testing of doctors for substance abuse [in this opinion piece](#) published by the New York Times. His clarion call followed [a similar endorsement](#) published in the Journal of the American Medical Assn. by two patient safety researchers at Johns Hopkins Medicine. I have personally discussed the issue with Dr. Stephen Loyd, head of his hospital in Tennessee and one of the [White House drug control office's 2014 "Advocates for Action,"](#) who recovered from his own fight with prescription drug addiction to become one of the nation's leading advocates for random substance abuse testing of physicians.

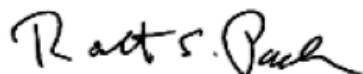
I understand the ACLU has never been a fan of drug or alcohol testing in any form, even when it comes to safety sensitive positions such as airline pilots, and has consistently opposed the use of DUI checkpoints as a form of deterring drunk driving. Such stands put the ACLU at odds both with public opinion and, frankly from my perspective, with common sense.

I say this as a father who lost my own two children, Troy and Alana, to a motorist intoxicated by alcohol and prescription drugs she had acquired by "doctor shopping" several Kaiser physicians. My own experience prompted me to help develop the states CURES prescription drug database and successfully champion its full funding by the Legislature in 2013 as well as its mandatory use, one of the planks of Prop 46, the Troy and Alana Pack Patient Safety Act.

If only one of those DUI checkpoints the ACLU abhors had stood like a sentry between that intoxicated motorist and my children on the evening that they were killed. The ACLU's stand on that issue, and the testing of pilots and doctors, discredits the lives of victims such as my children.

I look forward to hearing your answers to the questions I have posed. I feel you owe answers to me and other supporters of Prop 46, as well as to voters who will make the decision on the Troy and Alana Pack Patient Safety Act on Nov. 4. You can respond to my email [bpack@sbcglobal.net](mailto:bpack@sbcglobal.net) or the campaign fax (310) 392-8874.

Sincerely,



Bob Pack  
Prop 46 author