

PACK PATIENT SAFETY ACT – IT'S ABOUT TIME!

This month, there is going to be a crucial push to get all of our members behind the Pack Patient Safety Act. For many of you, this might be the only time in your lifetime to make a real policy change for the protection of consumers in the health care field in our State. The thought of protecting and preventing catastrophic injuries to our citizens is something that we must all get behind.

The key provisions of the Pack Patient Safety Acts includes many positive messages such as:

- (1) Protection for patients by requiring random drug and alcohol testing of doctors – specifically the provisions will require that hospitals conduct random drug and alcohol tests of doctors including contractors and those with admitting privileges.
- (2) Random drug testing is modeled after the Federal guidelines for airline pilots.
- (3) If a patient is injured or dies because of a medical error, the hospital must test all doctors involved in the patient's care the previous 24 hours.

Doctors testing positive for drugs and alcohol would be reported to the Medical Board. The doctors testing positive would be suspended pending an investigation. The doctors are required to report suspected drug or alcohol abuse by other doctors. The disciplinary action that would be required for an investigation includes that of a doctor who was impaired by drugs or alcohol while on duty.

A CRACKDOWN ON PRESCRIPTION DRUG ABUSE AND OVER-PRESCRIBING OF ADDICTIVE MEDICATIONS:

- (1) Doctors would be required to consult the Statewide prescription history data base before prescribing addictive pain killers such as Vicodin or Oxycontin for the first time to a patient.
- (2) If a doctor over-prescribes, disciplinary action would be taken against him.

To ensure that injured patients and families are fairly compensated and can hold bad doctors accountable:

- (1) The current \$250,000 cap on damages, set in 1975, would be adjusted for inflation.
- (2) Stay-at-home moms, veterans, seniors and children would not be denied justice just because they lack a salary;

Who are Troy and Alana Pack? The Packs had a 10-year old boy named Troy Pack and a 7-year old daughter named Alana Pack. While walking down a sidewalk in their Bay Area neighborhood, they were hit and killed by a drugged driver. The driver was high on a prescription drug cocktail authorized by negligent doctors who never bothered to check her prescription history of stocking up on thousands of pills. Since that tragic day a decade ago, Troy and Alana's dad, Bob Pack, has been fighting to change State law to ensure that victims of medical negligence receive justice and that no other family ever has to suffer like that again.

Medical errors are linked to some 440,000 deaths each year. Unfortunately, my Mom was one of those.

It was November 1998 and my parents had just retired and sold their small printing business in Seattle, Washington. They had purchased a used motor home and planned on spending their retirement years by driving out of the Pacific Northwest in the winter time to get away from the dark, wet days and come to Southern California and other warmer climates to visit their grandkids, children and friends. November 1998 was their first such visit in their retirement.

My Mom came and stayed at my house in Manhattan Beach for approximately five or six days and then drove down to my sister's house in San Diego to see her and her husband. While my Mom was at our house, she had stated that she felt like her heart was racing a bit and that her heart beat seemed

irregular. I told her to have it checked when she was down in San Diego because they have a lot of good hospitals and doctors down there. Several days passed and I got a call from my Mom and she told me that she did in fact go in and have her heart tested and they told her that she had an elevated heart rate and that even though she was only 64 years old, they wanted to put in a pacemaker. Since my wife, Janet, had had a defibrillator procedure some three years earlier, I knew that this, although a serious procedure, was one that was done pretty regularly these days.

I went down to San Diego and visited her before the surgery and then stayed overnight until she had the surgery the next day. After recovering from the surgery in the hospital the next day, I was able to visit with her and she seemed pretty good. I left to come back home to Los Angeles and return back to work. Two days later, I get a call from my Aunt Sandra, her sister, who said "I have some bad news." I asked her "what's the bad news" and she said "your Mom is gone." I said "what do you mean she's gone?" She said, "I mean, she passed away in the hospital that day." I asked her "well, what in the world happened?" And she said she didn't know and that the hospital and the doctor said they didn't know. They were going to do an autopsy and try and find out.

Subsequently, an autopsy was performed. We took the necessary measures to potentially have my mother's body cremated and have a procedure in place for her funeral back up in the Seattle area in December. Several weeks after the funeral, my Dad got a sort of anonymous call from the coroner who said "Are you Mr. Wells?" He said "yes, I am." He said, "I was the coroner who did the autopsy on your wife, Joan, and I have to tell you that it looks like her heart was perforated three times by the leads for the pacemaker and that she just essentially bled to death in the hospital in her room in front of everyone and nobody noticed."

My Dad called me to ask me what we should do and I asked him what he wanted to do. He told me he didn't really want to sue anybody because he's never sued anybody in his life and didn't want to

start now. I asked him if he thought that that was the best way to go and he said he would think about it and call me back. He called me back about a week later and said “you know, I’ve thought about it and I thought about what that coroner said and I think it’s important that this doesn’t happen to another family and that we stand up and make a claim.”

Thereafter, I contacted Steve Heimberg and had him review the case. He took the case, filed the lawsuit and had the case resolved on the first day of trial. Unfortunately, I had to explain to my father, my two older brothers and my younger sister, that because my Mom had recently retired, she didn’t have any income other than her social security, the case had a \$250,000 cap for the entire family and that they would never pay the \$250,000 cap. I had to explain to my family members that most likely, this case would end up settling for somewhere around \$100,000 and, to much of their surprise, that on top of that, they would then have to pay attorney’s fees and costs. Fortunately, in our case, after we got the case settled, our lawyer, Mr. Heimberg, agreed to waive his fees and just pay his costs and everyone ended up with a small pittance of money to reflect a spectacular woman who was married for 46 years and gave everything she had to her husband, four kids and her six grandkids. I felt shameful having participated in the process because even though you try and tell someone the value of a case doesn’t represent the value of a life lost, to them it still does.

This Fall, we have an opportunity to make a difference so that this does not have to continually happen over and over and over to people and citizens of our State – the most vulnerable citizens – people who are elderly, young children who don’t have an income, veterans who don’t have a big salary. These types of people deserve to be protected and they deserve to have us fight for them.

Everyone is going to have to do their part and make sure that this bill passes in November.

Thank you.