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By: **Senators Teitelbaum, Hollinger, Dyson, and Collins**  
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Assigned to: Economic and Environmental Affairs

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Committee Report: Favorable  
Senate action: Adopted  
Read second time: March 10, 1998

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Health Occupation Boards - Sexual Misconduct**

3 FOR the purpose of requiring health occupation boards to adopt certain regulations  
4 prohibiting certain sexual misconduct; specifying that the commission of sexual  
5 misconduct shall serve as a basis for administrative prosecution by a health  
6 occupation board; requiring certain reporting by the health occupation boards  
7 and the Secretary of Health and Mental Hygiene; and generally relating to  
8 prohibition and discipline by health occupation boards of sexual misconduct.

9 BY adding to  
10 Article - Health Occupations  
11 Section 1-212  
12 Annotated Code of Maryland  
13 (1994 Replacement Volume and 1997 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article - Health Occupations**

17 1-212.

18 (A) EACH HEALTH OCCUPATION BOARD AUTHORIZED TO ISSUE A LICENSE OR  
19 CERTIFICATE UNDER THIS ARTICLE SHALL ADOPT REGULATIONS THAT:

20 (1) PROHIBIT SEXUAL MISCONDUCT; AND

1 (2) PROVIDE FOR THE DISCIPLINE OF A LICENSEE OR CERTIFICATE  
2 HOLDER FOUND TO BE GUILTY OF SEXUAL MISCONDUCT.

3 (B) FOR THE PURPOSES OF THE REGULATIONS ADOPTED IN ACCORDANCE  
4 WITH SUBSECTION (A) OF THIS SECTION, "SEXUAL MISCONDUCT" SHALL BE  
5 CONSTRUED TO INCLUDE, AT A MINIMUM, BEHAVIOR WHERE A HEALTH CARE  
6 PROVIDER:

7 (1) HAS ENGAGED IN SEXUAL BEHAVIOR WITH A CLIENT OR PATIENT IN  
8 THE CONTEXT OF A PROFESSIONAL EVALUATION, TREATMENT, PROCEDURE, OR  
9 OTHER SERVICE TO THE CLIENT OR PATIENT, REGARDLESS OF THE SETTING IN  
10 WHICH PROFESSIONAL SERVICE IS PROVIDED;

11 (2) HAS ENGAGED IN SEXUAL BEHAVIOR WITH A CLIENT OR PATIENT  
12 UNDER THE PRETENSE OF DIAGNOSTIC OR THERAPEUTIC INTENT OR BENEFIT; OR

13 (3) HAS ENGAGED IN ANY SEXUAL BEHAVIOR THAT WOULD BE  
14 CONSIDERED UNETHICAL OR UNPROFESSIONAL ACCORDING TO THE CODE OF  
15 ETHICS, PROFESSIONAL STANDARDS OF CONDUCT, OR REGULATIONS OF THE  
16 APPROPRIATE HEALTH OCCUPATION BOARD UNDER THIS ARTICLE.

17 (C) SUBJECT TO THE PROVISIONS OF THE LAW GOVERNING CONTESTED  
18 CASES, IF AN APPLICANT, LICENSEE, OR CERTIFICATE HOLDER VIOLATES A  
19 REGULATION ADOPTED UNDER SUBSECTION (A) OF THIS SECTION A BOARD MAY:

20 (1) DENY A LICENSE OR CERTIFICATE TO THE APPLICANT;

21 (2) REPRIMAND THE LICENSEE OR CERTIFICATE HOLDER;

22 (3) PLACE THE LICENSEE OR CERTIFICATE HOLDER ON PROBATION; OR

23 (4) SUSPEND OR REVOKE THE LICENSE OR CERTIFICATE.

24 (D) THIS SECTION DOES NOT NEGATE ANY OTHER DISCIPLINARY ACTION  
25 UNDER A HEALTH OCCUPATION BOARD'S STATUTORY OR REGULATORY PROVISIONS.

26 (E) (1) EACH YEAR, EACH HEALTH OCCUPATION BOARD SHALL SUBMIT A  
27 STATISTICAL REPORT TO THE SECRETARY, INDICATING THE NUMBER OF  
28 COMPLAINTS OF SEXUAL MISCONDUCT RECEIVED AND THE RESOLUTION OF EACH  
29 COMPLAINT. THE REPORT SHALL COVER THE PERIOD BEGINNING OCTOBER 1 AND  
30 ENDING THE FOLLOWING SEPTEMBER 30 AND SHALL BE SUBMITTED BY THE BOARD  
31 NOT LATER THAN THE NOVEMBER 15 FOLLOWING THE REPORTING PERIOD.

32 (2) THE SECRETARY SHALL COMPILE THE INFORMATION RECEIVED  
33 FROM THE HEALTH OCCUPATION BOARDS AND SUBMIT AN ANNUAL REPORT TO THE  
34 GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT  
35 ARTICLE, NOT LATER THAN DECEMBER 31 OF EACH YEAR.

36 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
37 October 1, 1998.

