

SECOND CHANCE ADDICTION CARE

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TESTIMONY WITH RESPECT TO HB0881/SB0815: MENTAL HEALTH FACILITIES - SEXUAL ABUSE AND HARASSMENT - REPORTING AND PREVENTION

No one who suffers from addiction should be subjected to sexual harassment or abuse as a condition of getting help. In Maryland, this fundamental principle has been violated because women themselves have been violated in addiction treatment facilities.

Regrettably, the examples are many. At a facility, an employee demanded oral sex from patients in exchange for clean urinalysis reports. At another, a woman was groomed by an employee who used flattery and contraband to gain trust and coerce her into having a sexual relationship. One woman has alleged that a treatment employee made sexual advances and pressed her for intimate pictures. A colleague described such sexual misconduct as “rampant,” identifying ten incidents at one Maryland facility alone.

This reality is no secret in the treatment community. The Maryland General Assembly seems to be taking notice, too. The bill under consideration, HB0881/SB0815, would require treatment facilities to report complaints of sexual misconduct to state regulatory authorities and to develop policies and procedures regarding these complaints.

As the Founder and CEO of an outpatient addiction facility in Maryland, I commend Maryland legislators for giving attention to this important issue. For any such legislation to be meaningful, however, at least three amendments are necessary.

First, the bill applies only to residential treatment facilities. While opportunities for sexual misconduct may be greatest in residential facilities, this behavior occurs in outpatient settings as well. Indeed, the aforementioned example in which clean urinalysis results were traded for oral sex happened in an outpatient facility. Accordingly, any legislation concerning sexual misconduct in addiction centers should extend to outpatient programs. Without this amendment, there would be a significant gap in patient protection.

Second, the bill requires facilities to disclose complaints of harassment or abuse to state regulatory authorities. But facilities have every incentive to avoid such reporting and to narrowly construe what constitutes prohibited harassment or abuse. Accordingly, patients should

be able to report objectionable actions directly to the state, in order for the regulatory authorities to then objectively and independently determine whether the relevant actions qualify as prohibited misconduct. Patients should be made aware of this alternative reporting option, in writing and verbally, at intake.

Third, and frankly, without any sort of penalties, neither facilities nor employees will take this bill seriously. It will be added to, and buried in, the avalanche of administrative requirements already imposed on treatment facilities. To avoid the bill becoming an empty formality, penalties should attach to facilities and employees. Any facility that becomes aware of misconduct and fails to take corrective action should face license suspension or revocation.

Even if all facilities discipline or terminate employees who cross the line, these employment decisions will be taken after a patient has been harmed and possibly left treatment. The question therefore becomes how to better prevent such misconduct from occurring in the first place. Criminal and professional consequences should be on the table. As to criminal liability, it should be unlawful for any employee to engage in sexual abuse or harassment of a patient. Some jurisdictions prohibit any sexual contact between a treatment employee and patient, on the theory that such patients are incapable of providing consent, much like a nurse-patient or guard-inmate relationship. This model—which reflects the isolation and vulnerability of the patient, as well as the inherent caretaking function of the provider—should be adopted in Maryland. As to professional consequences, any employee who engages in sexual misconduct should be disciplined, if not barred from working in the human health service field.

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I humbly submit these proposed amendments to the legislature for their consideration. If there is any way I can be useful to the General Assembly as it further engages in the legislative process, please feel free to contact me.

Yours in Service,



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