



Working to end sexual violence in Maryland

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Testimony Supporting House Bill 1402 with Sponsor Amendment
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The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence. We urge the Judiciary Committee to report favorably on House Bill 1402 with sponsor amendment.

House Bill 1402 – #MeToo – Health Care Practitioners
Reporting and Statute of Limitations

This bill extends the time period for patients to file 4th sex offense charges against health care practitioners and requires that other providers advise the patient and, when applicable, the abuser's employer of suspected sexual abuse.

The vast majority of physicians and other health care providers in the United States do not commit or condone sexual violence; however, perpetrators exist in every profession. The true prevalence of sexual assault committed against patients is difficult to discern due to a lack of current, readily-accessible research on the issue. A 1998 study in the Journal of the American Medical Association found that the number of physicians disciplined per year for sex-related offenses increased from 42 in 1989 to 147 in 1996; and the proportion of all disciplinary orders that were sex related increased from 2.1% in 1989 to 4.4% in 1996. Since then, the #MeToo movement has encouraged more survivors to come forward and disclose sexual abuse by health care providers.

Consider these news reports:

- The first time that Dr. Anthony Bianchi came onto a patient, he exposed his erect penis during a routine vaginal exam. The second time, he told a patient that he couldn't stop staring at her breasts and recounted a dream in which he performed oral sex on her in the office. The third time, he told a pregnant patient suffering from vaginal bleeding that she shouldn't shave her pubic hair before her next visit, as he was getting too excited. These episodes led to disciplinary actions by the state's medical board in 2012 and in 2016, but no criminal charges have ever been filed. Bianchi held onto his medical license and under a settlement with California's medical board, he agreed to seek therapy and refrain from treating women. Source: <https://apnews.com/article/health-north-america-us-news-ap-top-news-ar-state-wire-fd90fdeabd1042679513ab0bccdee9ab>
- In Missouri, Dr. Milton Eichmann asked a woman badly injured in a sexual assault if she liked being tied up during sex, whether she was easily stimulated and whether she liked to be urinated on. He then told the patient, who was seeing the doctor for treatment of urinary problems, that he was being aroused.

- In Kentucky, Dr. Ashok Alur was examining an infection on a patient's abdomen. He told the patient she had sexy underwear. Then, he rubbed her and placed his mouth on her genitals. The patient pushed him away. "It was so beautiful," the doctor told her later when she confronted him. "I couldn't resist." Source: https://doctors.ajc.com/doctors_sex_abuse/?ecmp=doctorssexabuse_microsite_stories

Patients face barriers to reporting abuse that are inherent in the patient-health care provider relationship.

The nature of the health care provider-patient relationship often requires touching of intimate areas. Patients may lack the expertise to distinguish touching necessary for examination and treatment from abuse. The brave women abused by sex offender and physician, Larry Nassar helped shine light on this issue. Nassar sexually abused hundreds of athletes, many of them underage girls, under the guise of medical treatment and more than 300 victims came forward. <https://www.michiganradio.org/news/2018-10-19/number-of-nassar-accusers-approaches-500> His first known sexual abuse was in 1990 against a 10-year-old girl while working as an athletic trainer for USA Gymnastics. <https://www.nytimes.com/2018/01/25/sports/larry-nassar-gymnastics-abuse.html> Nassar's conduct was originally hidden because the girls and their parents were told it was medical treatment.

House Bill 1402 helps remove barriers to identification of sexual abuse by health care providers by requiring that colleagues inform the patient of suspected abuse. This is critical to patient-survivor empowerment and directly addresses the difficulties encountered when a patient is not sure if touching was treatment. When a reporting health care provider works for an institution (like a hospital), the institution will also be informed so they can track allegations and take appropriate action to protect patients.

House Bill 1402 expands the period of time for patients who are survivors of abuse to file 4th degree sexual offense charges. The current one year statute of limitation protects offenders. There are many reasons why a patient who has been sexually abused might not come forward. When patients are not aware of the abuse (e.g., the patient was sedated), or are confused as to whether abuse occurred (e.g., not realizing that an ungloved vaginal exam was unnecessary), this can contribute to delays seeking justice. <https://journals.sagepub.com/doi/full/10.1177/1079063217712217> Many patients keep silent for fear they won't be believed, especially if the health care provider is well respected. Many health care providers, including doctors and advanced care practitioners, are well-connected, well-liked, and highly-respected in their communities, making it difficult for people in those communities to believe allegations of abuse, and difficult for victims to feel empowered to report the crime. <https://oaesv.org/wp-content/uploads/2021/04/oaesv-sa-of-patients-by-physicians.pdf> Expanding the statute of limitations from one to three years will provide needed time for survivors, but is still far short of the unlimited statute of limitations that apply in criminal cases involving penetration.

Sponsor Amendment: HB1402 as drafted omitted language to restrict reporting requirements to sexual abuse by health care practitioners. MCASA respectfully requests the following amendment to clarify that only abuse by health care practitioners is reported (note that other provisions in the code already require reporting of abuse of minors and certain vulnerable or institutionalized adults):

On page 3, line 10, following "SEXUAL ABUSE" insert "BY A HEALTH CARE PRACTITIONER ACTING IN A PROFESSIONAL CAPACITY"

**The Maryland Coalition Against Sexual Assault urges the
Judiciary Committee to
report favorably on House Bill 1402 with Sponsor Amendment**