

MedChi

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TO: The Honorable Luke Clippinger, Chair
Members, House Judiciary Committee
The Honorable Rachel Jones

FROM: J. Steven Wise
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DATE: March 29, 2022

RE: **SUPPORT WITH AMENDMENT** – House Bill 1402 – *Health Care Practitioners – Sexual Abuse – Reporting and Statute of Limitations*

The Maryland State Medical Society (MedChi), the largest physician organization in Maryland, **supports with amendment** House Bill 1402.

House Bill 1402 would mandate that a health care practitioner acting in a professional capacity who suspects or has reason to believe a patient has been subjected to sexual abuse must notify the patient or their guardian, or if working in a hospital, the head of the hospital. MedChi understands the goal of the legislation is to require that practitioners report sexual abuse perpetrated by other practitioners. While MedChi agrees with this goal, the bill, as drafted, needs amending in several respects to effectively achieve it.

First, the bill is not clear that it pertains only to patients that have been abused by another health care practitioner. It encompasses the sexual abuse of any patient, regardless of who is suspected of being the abuser (p.3, line 10). Regarding minors, this creates conflicting obligations for practitioners because existing law requires them to report suspected sexual abuse already. *See* Fam. Law §5-704. However, the abuse must be reported to local law enforcement or the local health department and purposefully avoids reporting it to a guardian because it may well be the guardian that is the abuser. House Bill 1402 would require that the guardian also be notified.

Second, House Bill 1402 requires that the required notifications be made within 24 hours in writing. This time limit is arbitrary, difficult to comply with, and does not take into consideration the dynamics that may be at work in some situations. For example, a physician may suspect that their well-known business partner and practitioner is sexually abusing a patient but wants to conduct due diligence before making what is perhaps a career-ending allegation. Their diligence may take more than 24 hours

because it may rightfully include the review of medical records and other information which takes time.

Relatedly, the reporting practitioner is going to be concerned with the personal ramifications of making this most serious of allegations. On the one hand, they recognize the need to protect the patient through the prompt reporting of suspected sexual abuse, but, on the other hand, want to be as certain as they can that sexual abuse is occurring, because lives will be forever changed once the notification is made. There are potential financial ramifications, work relationships severed, and even potential civil litigation as a result. On this point, it is important to note that the child abuse statute upon which House Bill 1402 appears to be modeled contains an immunity provision for a reporting party who acts in good faith. *See* Fam. Law § 5-708. The committee should weigh whether to afford the reporter this protection.

MedChi believes that these issues need to be addressed through amendments, and we offer our time and input toward that end.

For more information call:

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