



April 13, 2018

Senator Jerry Hill
Chair, Business & Professions Committee
State Capitol Building, Room 5035
Sacramento, CA 95814

Re. SB 1448 – Patient Right to Know Act – SUPPORT

Dear Senator Hill,

The #MeToo and #TimesUp movements have spurred greater transparency and accountability for sexual assault in the workplace from Hollywood to the Legislature, but no one tells patients about sexual assault in the doctor's office, where patients should feel safest.

It's time to lift the veil of secrecy around physician misconduct that causes patient harm.

Senate Bill 1448 – the Patient Right to Know Act – will require doctors to tell their patients if they have been disciplined for serious misconduct, including sexual assault, drug use, overprescribing and negligence that causes a patient's death. Patients have a right to know if their doctor has been disciplined for causing patient harm.

Women from all walks of life, from hospital employees to Olympic athletes, have come forward to tell their stories of sexual assault at the hands of their doctors and to demand lawmakers act to protect other patients from the same abuse.

In the high-profile case of Olympic team doctor Larry Nasser, who was convicted after decades of abusing the athletes under his care, authorities who could have protected his victims failed to act.

As former Olympic gymnast Jeanette Antolin said last week: "Bills like this could have helped save so many of our sister survivors...We should be doing everything in our power to make sure people feel safe going to the doctor."

At its upcoming meeting in Los Angeles, the Medical Board of California will consider disciplinary action for a local doctor whose case illustrates why SB 1448 is so necessary.

Dr. Syed K. Zaidi, of Sacramento, is charged with sexual misconduct with at least three patients. In 2009 a patient lodged a complaint with the Board against Dr. Zaidi for touching her inappropriately during a physical exam. The Board took no public action on her complaint. Four years later, two additional victims came forward with complaints that Dr. Zaidi asked them to undress in front of him for routine exams in which disrobing was not

necessary. A Board-mandated psychiatric evaluation diagnosed Dr. Zaidi with an “unspecified paraphilic disorder.” The American Psychiatric Association defines paraphilic disorders as atypical sexual interests in which people “feel personal distress about their interest, not merely distress resulting from society’s disapproval; or have a sexual desire or behavior that involves another person’s psychological distress, injury, or death, or a desire for sexual behaviors involving unwilling persons or persons unable to give legal consent.”

The Medical Board has finally, nearly a decade after the first patient cry for help, recommended that Dr. Zaidi be placed on a 5-year probation. Under current law, his patients will not be told why he is required to have a monitor in the room anytime he sees a female patient, or of the other terms of his probation.

Many would consider it shocking that, after multiple instances of patient harm, the Board has taken such limited action to address Dr. Zaidi’s misconduct. Yet the question before you with SB 1448 is more limited. When the state authority charged with protecting patient safety has *finally* deemed a doctor’s misconduct serious enough to merit probation, shouldn’t that doctor’s patients be told?

82% of respondents to a 2016 survey by Consumer Reports believe the answer is yes.

Opponents claim that SB 1448 is unnecessary because all a patient has to do is check a doctor’s license at the Medical Board’s website. The idea is laughable.

Placing the burden on the public to know about an obscure state government website, then wade through and decipher legal documents about a doctor’s history of misconduct, is equivalent to sealing a doctor’s disciplinary records to the public. The vast majority of patients have no idea they have a right look up a doctor’s record beyond Yelp reviews. This is why disclosure before a patient’s appointment, as required by SB 1448, is so critical to patient safety. Patients will never learn otherwise.

Context is critical. The Medical Board rarely takes disciplinary action against doctors.

Just 18% of the 76,213 complaints filed with the Board since 2007 even reached the investigation phase. An average of just 124 doctors of those doctors are placed on probation per year. This small minority is less than one half of one percent of the 113,000 active licensed physicians in California. Doctors in these cases have either agreed to the terms of probation or have been found guilty by an administrative law judge. When it takes grave misconduct with overwhelming evidence to result in the Board placing a doctor on probation, safety demands the Legislature do all it can to ensure patients are informed.

SB 1448 is also necessary because physician regulators at the Medical Board of California have repeatedly dismissed proposals that the Board require disclosure as a condition of all probation agreements.

California public policy already recognizes a patient right to know by mandating that physician disciplinary information be disclosed online. Yet this mandate is specious when patients will never receive the information it requires to be disclosed.

It's time to end the secrecy. We urge the committee to prioritize patient safety over protecting doctors and support SB 1448.

Sincerely,

A handwritten signature in black ink that reads "Carmen Balber". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Carmen Balber
Executive Director

cc: Senator Jean Fuller (Vice Chair)
Senator Bill Dodd
Senator Cathleen Galgiani
Senator Steven M. Glazer
Senator Ed Hernandez
Senator Josh Newman
Senator Richard Pan
Senator Scott Wilk