



June 13, 2018

Assemblymember Evan Low
Chair, Business & Professions Committee
1020 N St., Room 383
Sacramento, CA 95814

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

Dear Assemblymember Low,

Authorities at every level have failed to protect patients from doctors with histories of sexual assault and other patient harm. Employers sweep physician misconduct under the rug, sometimes for decades. Regulators take years to investigate when they receive complaints about dangerous doctors. Patients are not notified when doctors are disciplined. California's system of physician oversight does not protect patients from sexual predators and other patient harm.

It's time to lift the veil of secrecy around physician misconduct.

Consumer Watchdog urges your support for Senate Bill 1448 (Hill) – the Patient Right to Know Act – to require doctors to tell their patients if they have been disciplined by the California Medical Board for causing serious patient harm in four categories: sexual misconduct with a patient, overprescribing, criminal convictions and doctor drug or alcohol use.

California's failure to protect patients from dangerous doctors has never been more apparent than it is now in the midst of the reckoning begun on sexual assault by the #MeToo and #TimesUp movements. Transparency and accountability about sexual assault has not yet reached the doctor's office, where patients should feel safest.

The public will no longer accept the kind of secrecy and coverups that allowed Olympic team doctor Larry Nassar and USC student health gynecologist George Tyndall to victimize women with impunity for decades.

The Patient Right To Know Act takes the first step towards ensuring that patients have the information they need to protect themselves from sexual assault and other harm.

Senator Hill's 2016 bill on this topic (SB 1033) required disclosure by doctors on probation for any reason. Last year's proposal, considered as part of the Medical Board Sunset Review legislation (SB 798), scaled that back significantly. This year, with SB 1448, Senator Hill took even more substantial amendments that have narrowed the bill to requiring doctors disclose when they are on probation **in only the most egregious cases of misconduct in**

which a doctor directly caused patient harm or was abusing drugs and placing patients at risk. No one but doctors who have actually committed these offenses could object to disclosing this information so clearly vital to patient safety.

The bill would require disclosure by approximately half of the doctors the California Medical Board places on probation every year. For example, according to the Medical Board's annual reports for fiscal years 2013 to 2017, 283 of 599 probation cases involved sexual misconduct, drug or alcohol abuse, improper prescribing and criminal convictions. The most serious of these cases involving patient harm are covered by SB 1448's protections.

These cases happen in every community in California. As we have learned most recently from the revelations at USC, just one doctor can place hundreds, sometimes thousands, of patients at risk.

In April, Dr. Michael Popkin of Los Angeles was sentenced to prison for sexual exploitation and battery of five patients. One of those patients, Karie H., testified recently before the Medical Board of California: "Patients need this information so they can make an informed decision. If I would have had the information about what you hid on the shelves of all the notifications from the other ladies who he had sexually assaulted, I would not have chosen him."

Karie was unaware Dr. Popkin was on probation for misconduct including overprescribing and gross negligence when she began seeing him. The Medical Board had also failed to take any public action on several prior patient complaints of sexual abuse. The Board did not suspend Dr. Popkin's license until a criminal complaint was filed by the Los Angeles District Attorney.

Karie's case illustrates not only the need to inform patients when their doctor is on probation, but also failures by the Medical Board to thoroughly investigate all patient complaints of sexual misconduct.

In June, Dr. Syed K. Zaidi, of Sacramento, was placed on probation for 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." Current law

does not require Dr. Zaidi inform his patients that he must have a monitor in the room to see a female patient, or of the other terms of his probation.

SB 1448 gives patients the information they need to protect themselves.

The Legislature has already recognized a patient right to know by mandating that physician disciplinary information be disclosed online. However, in practice, while reporters and consumer advocates may use the online system to investigate a doctor's misconduct it does not protect the vast majority of patients who have no idea they can look up a doctor's record beyond Yelp reviews.

Placing the burden on the public to know about an obscure state government website, have the internet, speak English, 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. 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.

A doctor's record of sexual assault and other serious patient harm is information a patient must have before she enters a doctor's office.

It's time to end the secrecy that perpetuates patient harm. We urge the committee to prioritize patient safety 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 Assembly Business & Professions Committee Members