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Title: Report Health Care Provider Sex Crimes to Law Enforcement  
Introduced by: Lee P. Begrow, DO, for the Kent County Delegation  
Original Authors: Megan Edison, MD, and Jayne Courts, MD  
Referred to: Committee on Rules and Order/Reference Committee B  
House Action: **APPROVED AS AMENDED**

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Whereas, high profile cases of health care provider sexual abuse and assault of patients have increased public awareness of this issue, and

Whereas, public outcry is justly critical of an opaque system that protects and shields abusers from justice, allowing abuse to continue, and

Whereas, the process to report health care provider sexual abuse and assault of patients is confusing for victims and colleagues and the legal definition of criminal sexual conduct is often poorly understood, and

Whereas, victims and reporting colleagues of the accused may not realize a crime has occurred or may assume that reports to the board of medicine will also trigger a criminal investigation, and

Whereas, the Michigan Public Health Code does not allow the Michigan Board of Medicine to report suspected sex crimes to the police, and

Whereas, 11 states (AZ, DE, FL, IA, OR, MA, MD, NY, TN, TX, WA) have such a provision in their public health codes, to not only allow reporting to law enforcement but mandate it, and

Whereas, this loophole has allowed health care providers across the country to commit sex crimes against patients with only medical sanctions, revocation of their licenses, or "quiet retirement" without facing criminal charges for their actions; therefore be it

RESOLVED: That MSMS work with the Michigan Legislature to amend the Michigan Public Health Code to require the state Board of Medicine to report criminal sexual conduct or predatory sexual behavior to the appropriate law enforcement agencies; and be it further

RESOLVED: That the Michigan Delegation to the American Medical Association (AMA) ask our AMA to work with the Federation of State Medical Boards to create and encourage state adoption of "model public health code language" that would require all state medical boards to report criminal sexual conduct or predatory sexual behavior to appropriate law enforcement authorities.

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WAYS AND MEANS COMMITTEE FISCAL NOTE: NONE

**Relevant MSMS Policy:** None

## **Relevant AMA Policy:**

### **Physician Competence H-275.998**

Our AMA urges: (1) The members of the profession of medicine to discover and rehabilitate if possible, or to exclude if necessary, the physicians whose practices are incompetent.

(2) All physicians to fulfill their responsibility to the public and to their profession by reporting to the appropriate authority those physicians who, by being impaired, need help, or whose practices are incompetent.

(3) The appropriate committees or boards of the medical staffs of hospitals which have the responsibility to do so, to restrict or remove the privileges of physicians whose practices are known to be incompetent, or whose capabilities are impaired, and to restore such physicians to limited or full privileges as appropriate when corrective or rehabilitative measures have been successful.

(4) State governments to provide to their state medical licensing boards resources adequate to the proper discharge of their responsibilities and duties in the recognition and maintenance of competent practitioners of medicine.

(5) State medical licensing boards to discipline physicians whose practices have been found to be incompetent.

(6) State medical licensing boards to report all disciplinary actions promptly to the Federation of State Medical Boards and to the AMA Physician Masterfile. (Failure to do so simply allows the incompetent or impaired physician to migrate to another state, even after disciplinary action has been taken against him, and to continue to practice in a different jurisdiction but with the same hazards to the public.)

### **9.4.3 Discipline & Medicine**

Incompetence, corruption, dishonest, or unethical conduct on the part of members of the medical profession is reprehensible. In addition to posing a real or potential threat to patients, such conduct undermines the public's confidence in the profession. The obligation to address misconduct falls on both individual physicians and on the profession as a whole.

The goal of disciplinary review is both to protect patients and to help ensure that colleagues receive appropriate assistance from a physician health program or other service to enable them to practice safely and ethically. Disciplinary review must not be undertaken falsely or maliciously.

Individually, physicians should report colleagues whose behavior is incompetent or unethical in keeping with ethics guidance.

Collectively, medical societies have a civic and professional obligation to:

(a) Report to the appropriate governmental body or state board of medical examiners credible evidence that may come to their attention involving the alleged criminal conduct of any physician relating to the practice of medicine.

(b) Initiate disciplinary action whenever a physician is alleged to have engaged in misconduct whenever there is credible evidence tending to establish unethical conduct, regardless of the outcome of any civil or criminal proceedings relating to the alleged misconduct.

(c) Impose a penalty, up to and including expulsion from membership, on a physician who violates ethical standards.