



03/01/22

Timothy G. Sekerak

Chief Clerk of the House

RE: Vote Explanation on HB 4142A

Dear Chief Clerk Sekerak,

I wish to explain for the record my “No” vote on House Bill 4142A. Based on my concern regarding our criminal justice system’s disparate treatment of BIPOC individuals and those with mental health diagnoses, I am uncomfortable with this policy as it stands today. This is also due to the extensive personal insight I have into how situations come to pass in which patients often lash out in a healthcare setting. I very much wish to help protect hospital workers and unfortunately, I do not believe this policy will accomplish its desired outcome.

I have had extensive outreach from colleagues in healthcare as well as members of my community on this bill. Some very strongly asserted the symbolic importance of my supporting this policy due to the clear understanding we share that violence in the healthcare workplace is an enormous problem. Equally vigorous was the outreach I received from many who share my concern that this policy will have very little impact on healthcare worker safety and can lead to disproportionate harm to people who are often at their most vulnerable when in the hospital. My “No” vote today reflects my feeling this policy poses more risk for harm to our patients than it does benefit for our healthcare workers.

We heard heartfelt and difficult testimony while sitting in the House Committee on Judiciary from many committed healthcare workers, stories we all agree are unacceptable and need to be prevented. Unfortunately, it is my opinion this law change will not impact the majority of the situations discussed. All four categories of assault (I, II, III, and IV) are available to prosecutors and law enforcement when analyzing reports of assaults on healthcare professionals. Several stories reflected on serious injuries suffered that could have been charged as felonies, regardless of who the victim was. The stories shared of being openly threatened, without physical contact, would not be addressed by this bill.

I proposed a -6 amendment because of my concern that this law change will not lessen the number of assaults suffered in healthcare settings. This amendment would have led to a retrospective 3-year review of the impact of this policy and a report to the legislature to help us understand whether the bill had the intended impact on the safety of healthcare workers, whether it led to prosecutions and if so, what

demographics were most impacted. Thirty-eight other states have increased penalties for this type of offense, elevating it from a misdemeanor to a felony, without evidence this deters patients from committing assaults. I was supportive of this policy if we had a clear path to look at its downstream impacts and assess whether it was successful in making healthcare workers safer. The -6 amendment had significant support, but didn't get amended to the bill due to the fiscal impact of the study. Without this amendment, I am a "No" on the bill.

This bill will almost certainly have disproportionate negative impact on vulnerable patients in psychiatric care settings, where the majority of healthcare violence exists, in part because people with mental illness are more likely to be perceived as inherently dangerous¹. Although the word "reckless" was removed from the bill in attempts to avoid targeting patients with altered mental state or mental illness, interpretations of "intentionally" and "knowingly" are sufficiently subjective that there remains significant risk that behavior in a moment of crisis and need in these vulnerable populations may be criminalized.

I greatly respect and empathize with healthcare workers who are fighting for a safer work environment. As a physician, I have personally suffered from assaults and threats while at work, which is altogether too common. I have also seen the pain, stress and mental health challenges some patients suffer with during their time in a hospital setting. The situations that lead to potentially violent behavior often could have been avoided and/or de-escalated; this is where our opportunity is most apparent to make effective changes.

The health and safety of my healthcare colleagues can be addressed in other, more effective, ways including:

- Safe staffing ratios
- In-person de-escalation training for workers most likely to be impacted by threats and violence
- Robust reporting of incidents when healthcare workers are threatened and harmed to appropriate authorities
- OSHA rule changes to improve healthcare workplace safety
- performing retrospective evaluations of violent patient outbursts to assess from a system perspective how to mitigate risk

We need to work to change the policies that lead to unsafe hospital work environments and our interventions that ineffectively respond. The need for this work is urgent and I am committed to working on this with my colleagues in the 2023 session.

Sincerely,

Representative Maxine Dexter, M.D.

House District 33 (NW Portland and NE Washington County)



¹ Jorm, Anthony and Reavley, Nicola and Ross, Anna, "Believe in the dangerousness of people with mental disorders: a review", March 15, 2021, <https://pubmed.ncbi.nlm.nih.gov/22422995/>.