**Statement of**
**S. Michael Plaut, Ph.D.**
**Regarding House Bills 894, 895, 896 and 897**
Referred to the Committee on Judiciary
The General Assembly of Pennsylvania
June 13, 1991



Mr. (Mme.) Chairman, Members of the Committee:

My name is Michael Plaut, and I am a psychologist, licensed in the State of Maryland. I am an Associate Professor in the Department of Psychiatry at the University of Maryland School of Medicine, which I also serve as Assistant Dean for Student Affairs. My major academic interest is in the area of human sexuality, and I am certified as both a sex educator and sex therapist by the American Association of Sex Educators, Counselors and Therapists (AASECT).

From 1982 to 1985 I served on the Board of Examiners of Psychologists for the State of Maryland, and chaired the Board for the last two of those years. It was during that time that I became interested in the problem of sexual interaction between health professionals and their clients. I have continued to be active in that area since my tenure on the Board, and these activities have included lecturing, writing, serving as therapist or consultant to both offenders and victims, consulting to licensing boards, and testifying in hearings.

Because of the nature of my reactions to these bills, I will consider them in numerically reverse order. I think that H.B. 897, regarding a civil cause of action, is basically an excellent bill. I like the definitions of sexual exploitation, the way in which consent is dealt with, the definition of "former patient," and the five year statute of limitations. I do wonder, however, why there is not a companion bill for other practitioners of the healing arts, as there is for the criminal bills. I see no reason why such a companion bill wouldn't be just as appropriate, with the possible exception of the six month waiting period. A second suggestion, if it is legally appropriate, is that the bill provide for mandatory reporting to professional authorities, as does H.B 894 (page 4, line 12 ff.), as a civil action in and of itself provides no assurance that future patients will be protected.

Turning now to the criminal bills, 895 and 896, I think that these, too, are good bills in that they restrict themselves to only the most serious and clearly definable types of offenses. I say this without having seen the actual definitions referred to in the bill, but inferring them from the language of the bills themselves. I am concerned that "nurses" are not listed among the practitioners of the healing arts (H.B. 895, page 2, line 24 ff.), and that "social workers" and either "pastoral counselors" or "clergy" are not referred to under the definition of "psychotherapist" (H.B. 896, page 3, line 6 ff.). I wonder also whether H.B. 895 shouldn't also include a definition of "patient" identical to that in H.B. 896 (page 3, line 3). For example, there is often confusion as to whether

the prescription of drugs "as a friend" but without charge does not, in fact, constitute a professional relationship and thus subject a practitioner to certain expectations regarding boundaries.

Finally, I will discuss H.B. 894, regarding reporting of sexual offenses. This bill appears to take a compromise approach, by providing for patient consent during early stages of therapy (page 2, line 5). However, the bill goes on to *require* reporting, apparently without consent, after one year's time (page 3, line 11 ff.). I do not support mandatory reporting by a patient's therapist either with or without consent, for at least two major reasons:

1. The primary purpose of dealing with this issue should be for the protection of patients and clients. Although offenders should be dealt with whenever this is possible, it should *never* be done at the patient's expense. It is often difficult enough for a patient to go to a therapist after being victimized, and it is well known that many patients are reluctant to bring charges for very good reasons. Victims of psychotherapist sexual abuse have often been victimized by others before, and their need for therapy normally transcends and predates any impact of the offense by the therapist. It is vital that the patient feel free to go to a therapist and to disclose freely without fear that his or her confidence will be violated.

2. I do not feel that it is a therapist's role ever to act as a patient advocate outside the therapeutic setting, as it automatically introduces a bias which is inappropriate to the therapeutic process. The forensic psychiatrist A.A. Stone has written about this issue, and I commend you to his work (Sexual misconduct by psychiatrists: The ethical and clinical dilemma of confidentiality. *American Journal of Psychiatry*, 1983, **140**, 195-197).

I would have no problem with a measure that required that practitioners provide *information* about how and to whom to report, and a specific document might even be prepared for this purpose.

I also have a problem in principal with the requirement for mandatory revocation (page 3, line 24, ff.), as such a requirement, coming from the outside, as it were, strips the licensing boards of their authority and discretion in handling licensing issues. I would prefer to see such a requirement in the licensing statutes themselves, as it will have a greater and more appropriate impact if it has the obvious support of the professions.

In closing, I would like to commend you for your pursuit of this matter in a persistent and conscientious way over the last few years. I wish you luck in passing bills that help us all to deal more effectively and comprehensively with this important professional and public issue.