

HOSPITALS PAY THE PRICE: SEX ABUSE COVER-UPS ACCOUNTABLE UNDER NEW YORK ADULT SURVIVORS ACT

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TABLE OF CONTENTS

INTRODUCTION	464
I. BACKGROUND.....	465
<i>A. Sexual Abuse in Medical Settings.....</i>	<i>465</i>
<i>B. Enacting the New York Adult Survivors Act.....</i>	<i>468</i>
II. THE PROBLEM: EXISTING MECHANISMS FOR HOLDING HOSPITALS ACCOUNTABLE FOR SEXUAL ABUSE ARE INEFFECTIVE	471
<i>A. The most practical ways to hold hospitals accountable prior to the NYASA</i>	<i>471</i>
<i>B. Ineffectiveness of the OPMC</i>	<i>474</i>
<i>C. Case Studies on Pre-NYASA Hospital Accountability</i>	<i>475</i>
III. PROPOSAL: THE NYASA MUST BE EXPANDED TO OFFER A LONGER LOOK-BACK WINDOW FOR VICTIMS OF SEXUAL ABUSE.	480
<i>A. The expansion in the statute of limitations is insufficient because it does not help victims whose abuse occurred before 2019 ...</i>	<i>483</i>
<i>B. The NYASA Provides a More Effective Avenue to Hold Hospitals Accountable.....</i>	<i>485</i>
IV. CONCLUSION.....	487

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INTRODUCTION

Hospitals should be sites of health, treatment, and healing. But they typically cover up incidents of sexual abuse, dismissing patient claims of sexual misconduct and maintaining a “code of silence,” burying incidents of abuse.¹ Instead of protecting their patients, hospitals can selfishly and irresponsibly seek to protect their reputations at all costs.² Sexual abuse at the hands of medical professionals that is shielded by medical institutions can no longer be overlooked.³ Hospitals must be held accountable for incidents where they prioritize business above patients’ welfare, cover up abuse, and protect serial predators.⁴

To address this concern, the New York Adult Survivors Act (“NYASA”) was enacted in November 2022; a step in the right direction, but put forth with a prohibitive timeline.⁵ The NYASA implemented a one-year look-back window to give adult survivors of sexual assault, who have been deeply traumatized by their experiences, an opportunity to share their stories and hold their abusers accountable.⁶ The NYASA allows victims of sexual abuse to seek justice against their abusers and the institutions that allowed the abuse to continue.⁷ Filing a civil claim gives victims a voice, as civil cases represent their individual interests.⁸ Civil suits stress the importance of damages, asking survivors to determine an amount that embodies the pain, financial loss, and the negative effects on mental health that sexual violence has.⁹ Civil claims also provide accountability, a “reckoning” for the institution that enabled sexual violence to occur by “blatantly ignoring or covering up” these acts.¹⁰

¹ Nanci Hamilton, *Stopping Doctor Evil: How to Prevent the Prevalence of Health Care Providers Sexually Abusing Sedated Patients*, 45 HOFSTRA L. REV. 299, 303-311 (2016) (describing cases of patient sexual abuse while sedated).

² *Sexual Abuse in Hospitals & Health Care Facilities*, HERMAN L., <https://hermanlaw.com/hospital-sex-abuse-lawyer> (last visited Dec. 23, 2024) [<https://perma.cc/NQA6-2MQZ>].

³ See generally Bianca Fortis, *How Columbia Ignored Women, Undermined Prosecutors and Protected a Predator for More Than 20 Years*, PROPUBLICA (Sept. 12, 2023), <https://www.propublica.org/article/columbia-obgyn-sexually-assaulted-patients-for-20-years> [<https://perma.cc/SUX9-XJ4K>] [hereinafter Fortis, *How Columbia Ignored Women*]; Darius Paduch *Sexual Abuse Lawsuit*, THE DIPIETRO L. FIRM, <https://www.levylaw.com/dr-darius-paduch-sexual-abuse-lawsuits> (last visited Mar. 14, 2025) [<https://perma.cc/YKL5-YJ6E>]. Sadly, physician misconduct in hospitals has been rampant. Hospitals continue to conceal a physician misconduct.

⁴ *Sexual Abuse in Hospitals & Health Care Facilities*, *supra* note 2.

⁵ Candice Norwood & Jennifer Gerson, *The 19th Explains: What’s Next for New York’s Adult Survivors Act on Sexual Assault*, THE 19TH (Dec. 1, 2023, 6:05AM), <https://19thnews.org/2023/12/new-york-adult-survivors-act-sexual-assault> [<https://perma.cc/Z97X-7N7B>].

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

Hospitals have a long history of ignoring medical abuse and evading liability for enabling misconduct of all varieties, not just sexual abuse.¹¹ The NYASA has shed light on hospitals' failure to disclose sexual misconduct.¹² While the law has been effective in addressing hospital accountability and in providing an avenue for justice, the one-year look-back window has shuttered this possible remedy for too many victims.¹³ To reopen an avenue for justice for victims, this Note proposes that the look-back window must be expanded.

This Note highlights how hospitals have avoided liability through the ineffectiveness of the Office of Professional Medical Conduct ("OPMC").¹⁴ While the OPMC is responsible for investigating claims of misconduct, it often favors physicians and fails to consider the patients' concerns and safety.¹⁵ The NYASA helps combat this problem by providing another avenue for institutional liability: allowing survivors to file civil claims against the hospitals.¹⁶

Part I of this Note details the legislative background of the NYASA, including the history of sexual abuse in hospitals, the #Metoo Movement, the Child Victims Act, and the trauma that victims experience. Part II examines the prior mechanisms in place for holding hospitals accountable for sexual abuse including negligence claims, the ineffectiveness of reporting misconduct through the OPMC, and case examples prior to the passing of the NYASA. Part III proposes an expansion of the NYASA's look-back window, discussing the constrained avenues for justice for certain victims following the 2019 change in New York's statute of limitations for certain sex crimes, and the (re)traumatization of victims.

I. BACKGROUND

A. Sexual Abuse in Medical Settings

Sexual abuse in hospitals occurs when a medical official exploits the power imbalance between themselves and patients.¹⁷ Between 1999 and 2015, over three thousand doctors in the United States faced a form of

¹¹ *How Common Is Sexual Abuse in Hospitals?*, HURLEY MCKENNA & MERTZ, P.C. (Nov. 15, 2021), <https://www.hurley-law.com/chicago-injury-lawyers/how-common-is-sexual-abuse-in-hospitals> [https://perma.cc/25JH-MQRS].

¹² Norwood & Gerson, *supra* note 5.

¹³ *Id.*

¹⁴ Emrys Eller, *Did New York Let Doctors Get Away With Sexual Misconduct?*, CITY & STATE (Feb. 22, 2021), <https://www.cityandstateny.com/policy/2021/02/did-new-york-let-doctors-get-away-with-sexual-misconduct/175162> [https://perma.cc/P8QA-R66C].

¹⁵ *Id.*

¹⁶ N.Y. C.P.L.R. § 214-j (McKinney 2019-2024).

¹⁷ *How Common Is Sexual Abuse in Hospitals?*, *supra* note 11.

466 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 31:2]

discipline for sexual misconduct.¹⁸ During this time, more than 2,400 doctors were sanctioned for violating patients' rights.¹⁹ Additionally, between 2016 and 2017, at least 450 doctors faced court hearings for sexual misconduct.²⁰

Common offenses of sexual abuse in hospitals include failing to use gloves during an exam, refusing to explain an invasive procedure, and asking patients to expose body parts that are not needed to be shown to perform a medical exam.²¹ Patients are often unaware that they are abused in a medical setting because the doctor committing the abuse will place the patient under anesthesia.²² Nonetheless, some patients have explicit memories of when they experienced sexual violence.²³ In these circumstances, a hospital might tell the victim they were hallucinating under sedation and misunderstood the doctor's procedure.²⁴

The hospital's denial enables abusers to continue treating patients.²⁵ This is alarming, as hospitals are therefore exposing future patients to what is a clear and present potential danger.²⁶ Despite known sexual violence, medical professionals often receive protection from their employers against facing severe punishment.²⁷ Hospitals do so by failing to report doctors' abusive actions to the OPMC.²⁸ A 2019 study of 101 cases of sexual misconduct at the hands of physicians found that approximately "96% of the abuse was repeated and 58% of the abuse lasted for more than [two] years."²⁹ Abuse can also occur in the presence of a chaperone, such as a family member or nurse.³⁰ Although chaperones are required for examinations of sensitive

¹⁸ Carrie Teegardin, Danny Robbins, Jeff Ernsthause & Ariel Hart, *License to Betray: A Broken System Forgives Sexually Abusive Doctors in Every State, Investigation Finds*, THE ATLANTA J.-CONST., https://doctors.ajc.com/part_1_license_to_betray (last visited Nov. 24, 2024) [<https://perma.cc/3PUW-CQ7K>].

¹⁹ *Id.*

²⁰ *How Common Is Sexual Abuse in Hospitals?*, *supra* note 11.

²¹ *Sexual Abuse by Medical Professionals*, RAINN, <https://www.rainn.org/articles/sexual-abuse-medical-professionals> (last visited Jan. 17, 2025) [<https://perma.cc/24LL-JDR3>].

²² *How Common Is Sexual Abuse in Hospitals?*, *supra* note 11.

²³ Arthur S. Shorr, *Sexual Assault of Hospital Patients*, ADVOCATE (June 2018), <https://www.advocatemagazine.com/article/2018-june/sexual-assault-of-hospital-patients> [<https://perma.cc/3HH4-TLJU>].

²⁴ *Sexual Abuse in Hospitals & Health Care Facilities*, *supra* note 2.

²⁵ Shorr, *supra* note 23.

²⁶ *Id.*

²⁷ See generally Fortis, *How Columbia Ignored Women*, *supra* note 3; Darius Paduch *Sexual Abuse Lawsuit*, *supra* note 3.

²⁸ Eller, *supra* note 14.

²⁹ James M. DuBois, Heidi A. Walsh, John T. Chibnall, Emily E. Anderson, Michelle R. Eggers, Mobalaji Fowose & Hannah Ziobrowski, *Sexual Violation of Patients by Physicians: A Mixed-Methods, Exploratory Analysis of 101 Cases*, 31 SEXUAL ABUSE 503 (2019).

³⁰ *Id.*

2025]

HOSPITALS PAY THE PRICE

467

areas including a pelvic or vaginal exam in New York State,³¹ the study establishes that nineteen percent of the 101 sexual violations occurred when a chaperone was in the room.³² This is likely to occur if the nurse is filling out paperwork during the physician's medical examination or intentionally looking away to respect the doctor's privacy, as observing may imply mistrust.³³

Hospitals may be able to evade liability because of the state medical board's lack of transparency.³⁴ Although all fifty states are required to have medical board websites, "most are difficult to navigate."³⁵ In fact, the *Informed Patient Institute and Consumer Reports* conducted a study using a 100-point scale to determine the efficiency of each state's website and "none received higher than an [eighty-four]."³⁶ In addition to unnavigable websites, state boards typically describe sexual misconduct in vague language.³⁷ For example, when referring to sexual misconduct, state medical boards typically use terms such as "boundary issues or unprofessional misconduct" instead of "violence or sexual victimization."³⁸ Using the phrase "boundary issues or unprofessional misconduct" can be confusing because it is a broad term that encompasses many things from inappropriate communication to sexual assault.³⁹ This mislabeling is problematic because individuals may struggle to realize the extent of sexual misconduct.⁴⁰

Lastly, a medical board's decision not to punish a physician may be based on its need for skilled doctors.⁴¹ For instance, in rural areas, a board may disregard a physician's inappropriate misconduct to avoid filling an employment gap.⁴² It is challenging to recruit doctors in rural areas, as only

³¹ *About Sensitive Examinations and Procedures*, N.Y.-PRESBYTERIAN <https://www.nyp.org/medicalgroups/chaperone-policy> (last visited Nov. 24, 2024) [<https://perma.cc/8JUX-VZWU>].

³² DuBois, Walsh, Chibnall, Anderson, Eggers, Fowose & Ziobrowski, *supra* note 29.

³³ *Id.*

³⁴ Susan Scutti, *Report on Physician Sexual Abuse Stirs Alarm*, CNN (July 12, 2016, 7:56 AM), <https://www.cnn.com/2016/07/11/health/doctor-sexual-abuse/index.html> [<https://perma.cc/ABT3-N2L>].

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ Carol Cronin & Lisa McGiffert, *Communicating about Physician Sexual Misconduct, How are State Medical Boards Doing?*, INFORMED PATIENT INST. & PATIENT SAFETY ACTION NETWORK (June 2022), <https://www.informedpatientinstitute.org/pdf/Physician%20Sexual%20Misconduct%206-13-22.pdf> [<https://perma.cc/94CF-4U4R>].

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Scutti, *supra* note 34.

⁴² *Id.*

468 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 31:2]

ten percent of U.S. physicians practice in these areas.⁴³ This is precarious because medical boards are hesitant to intervene.⁴⁴

B. Enacting the New York Adult Survivors Act

The 2010s saw a revolutionary shift in awareness of and attitudes towards sexual violence in America.⁴⁵ The #MeToo Movement gained force in 2017 as a call to reduce sexual violence, bringing attention to the prevalence of sexual violence and providing a space for survivors to share their stories and advocate for justice.⁴⁶ The impact was not just cultural: governments soon joined the movement, enacting legislation inspired by or directly relating to the #MeToo Movement.⁴⁷

New York was one of the states that made legislative changes in response to the movement.⁴⁸ In September 2019, the New York State Legislature enacted legislation to increase the criminal and civil statutes of limitations for some sexual offenses from five years⁴⁹ to twenty years,⁵⁰ and added language allowing an action to be brought “against any party whose intentional or negligent acts or omissions are alleged to have resulted in the commission of the said conduct.”⁵¹

The Child Victim’s Act (“CVA”), enacted in February 2019, made three major changes to existing state law.⁵² First, it dramatically expanded the toll for civil claims by survivors who were sexually abused while under

⁴³ Andy Miller, *Rural Communities Left Hurting Without a Hospital, Ambulance or Doctors Nearby*, THE ATLANTIC J.-CONST (Dec. 31, 2021), <https://www.ajc.com/life/health/rural-communities-left-hurting-without-a-hospital-ambulance-or-doctors-nearby/R4HYR2QNMRF7PXTXVPP5O3UKE> [<https://perma.cc/6NH7-EBK8>].

⁴⁴ Scutti, *supra* note 34.

⁴⁵ Susan Sullivan & Megan Thomas, *20 Events That Shaped Sexual Violence Prevention in the Last 20 Years*, NAT’L SEXUAL VIOLENCE RES. CTR. (Nov. 13, 2020), <https://www.nsvrc.org/blogs/20-events-shaped-sexual-violence-prevention-last-20-years> [<https://perma.cc/VEV7-H79F>].

⁴⁶ *History & Inception*, ME TOO, <https://metoomvmt.org/> (last visited Dec. 22, 2024) [<https://perma.cc/K29M-HCMX>].

⁴⁷ See generally Helen Ouyang, *Abuse by Doctors Against Patients Deserves Its Own #MeToo Movement*, N.Y. TIMES (Nov. 20, 2023), <https://www.nytimes.com/2023/11/20/opinion/abuse-doctors-patients-metoo.html>.

#MeToo One Year Later: The Legislative Reaction, ORRICK, HERRINGTON & SUTCLIFFE LLP, (Oct. 18, 2018), <https://www.orrick.com/en/Insights/2018/10/MeToo-One-Year-Later-The-Legislative-Reaction>; Emily Haigh & Liran Messinger, *#MeToo Update: The Adult Survivors Act for New York Employers*, LITTLER (Feb. 13, 2023), <https://www.littler.com/publication-press/publication/metoo-update-adult-survivors-act-new-york-employers>.

⁴⁸ *#MeToo One Year Later: The Legislative Reaction*, *supra* note 47; Haigh & Messinger, *supra* note 47.

⁴⁹ NY CPLR § 213-c (McKinney 2019-2024).

⁵⁰ *Id.*; NY CPLR § 208 (b) (McKinney 2019-2024).

⁵¹ NY CPLR § 213-c (McKinney 2019-2024); NY CPLR § 213-c (McKinney 2019-2024).

⁵² N.Y. C.P.L.R. § 208 (b) (McKinney 2019).

2025]

HOSPITALS PAY THE PRICE

469

the age of 18: from ten years after the cause of action accrues⁵³ to any time “on or before the plaintiff . . . reaches the age of fifty-five years.”⁵⁴ Second, it explicitly allowed for civil lawsuits against the abuser *and* any institutions involved in the abuse, like churches, schools, and hospitals.⁵⁵ Third, in order to provide an opportunity for existing survivors of childhood sexual abuse whose claims had become time-barred under the prior version of the law, the CVA revived those civil claims by allowing a civil action for two years, through August 2021.⁵⁶ In this regard, the CVA was successful; approximately 10,000 claims were brought under the CVA,⁵⁷ and victims received financial compensation for the abuse they endured.⁵⁸ And any victims of child sexual abuse that occurred before February 14, 2019, will be able to file a civil claim until they turn fifty-five.⁵⁹

As more claims were filed pursuant to the amendments to the CVA, a disparity became evident: the CVA’s expansion of the statute of limitations for civil actions included a lookback window for claims that were time-barred, but the same was not available for those who were over age eighteen when they were victimized.⁶⁰ It is this disparity that was part of the motivation for the enactment of the New York Adult Survivors Act (“NYASA”),⁶¹ first introduced into the New York legislature in 2019 by Assemblymember Linda B. Rosenthal and Senate Judiciary Chair Brad Hoylman-Sigal.⁶² The legislative history of the NYASA points directly to this disparity between the CVA and the expansion of the statute of limitations for adults as a motivation for the enactment of the NYASA; both “were predicated on the widespread recognition that New York’s existing statutes

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.* (“[S]uch action may be commenced, against any party whose intentional or negligent acts or omissions are alleged to have resulted in the commission of said conduct.”).

⁵⁶ *Id.* Note that the initial enactment was for a one-year look-back window, which was then expanded by another year. *Id.*

⁵⁷ Kelsey Woodford & Jolena Jeffery, *New York Adult Survivors Act*, KATZ BANKS KUMIN (Jan. 27, 2023), <https://katzbanks.com/employment-law-blog/new-york-adult-survivors-act> [https://perma.cc/CLM2-DVLE].

⁵⁸ The Syracuse Roman Catholic Diocese has agreed to pay child survivors \$100 million as part of a settlement. Steve Janoski & Priscilla DeGregory, *Catholic Diocese of Syracuse Paying \$100M to Settle NY Child Sex Abuse Cases*, N.Y. POST (Aug. 1, 2023, 2:36 PM), <https://nypost.com/2023/08/01/catholic-diocese-in-syracuse-will-pay-100-million-to-settle-sex-abuse-cases> [https://perma.cc/8HJG-U7V7].

⁵⁹ N.Y. C.P.L.R. § 208 (b) (McKinney 2019).

⁶⁰ *Id.*

⁶¹ N.Y. C.P.L.R. § 214-j; Kathryn Kosmides, *The New York Adult Survivors Act Has Ended. What’s Next?*, HELPING SURVIVORS (Jan. 27, 2025), <https://helpingsurvivors.org/adult-survivors-act-new-york> [https://perma.cc/CK6D-CESN].

⁶² Brad-Hoylman-Sigal, *NY Senate Passes Adult Survivors Act Sponsored by Senator Hoylman*, N.Y. STATE SENATE (June 3, 2021), <https://www.nysenate.gov/newsroom/press-releases/2021/brad-hoylman-sigal/ny-senate-passes-adult-survivors-act-sponsored> [https://perma.cc/5XCK-CXLZ].

470 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 31:2]

of limitations were insufficient in giving survivors of these heinous crimes enough time to pursue justice through criminal charges or filing a civil lawsuit.”⁶³ In response, the NYASA was designed to give “the opportunity to seek civil redress” to adult survivors “who have had justice denied [to] them as a result of New York’s formerly insufficient statute of limitations.”⁶⁴

While there were initial delays in passing the NYASA—including the sexual assault allegations against then-Governor Andrew Cuomo, who might have been liable under the NYASA once signed into law⁶⁵—the bill had support.⁶⁶ In addition to Rosenthal and Hoylman-Sigal, Liz Roberts, the CEO of Safe Horizons,⁶⁷ played a massive role in encouraging the New York Legislature to pass the NYASA.⁶⁸ Roberts emphasized the importance of a survivor’s opportunity to heal and hold their abusers accountable.⁶⁹ After Cuomo resigned from office due to the sexual allegations against him, Governor Kathy Hochul passed the law in November 2022.⁷⁰

Beginning in November 2022 and ending in November 2023, the NYASA gave adult survivors of sexual assault a one-year look-back window to file a civil claim regardless of when that abuse occurred.⁷¹ The law also created a new avenue for *who* might be liable; mimicking the CVA, the NYASA allowed adult survivors to sue the institutions employing their abusers, such as hospitals.⁷² NYASA claims are for certain sexual offenses⁷³ that occurred after a victim turned eighteen.⁷⁴ The NYASA allows for a

⁶³ 2021 N.Y. S.B. 66 (N.Y. Comm. Rep., Dec. 31, 2020).

⁶⁴ *Id.*

⁶⁵ Douglas Wigdor, *Statute of Limitations on Sexual Assault Eliminated For One Year in New York Following Passage of The Adult Survivors Act*, FORBES (May 25, 2022), <https://www.forbes.com/sites/douglaswigdor/2022/05/25/statute-of-limitations-on-sexual-assault-eliminated-for-one-year-in-new-york-following-passage-of-the-adult-survivors-act/?sh=4bd3348f46fd> [<https://perma.cc/K2BT-8J4H>].

⁶⁶ *Id.*

⁶⁷ Safe Horizons is an organization dedicated to helping survivors of violence. *What We Do*, SAFE HORIZON, <https://www.safehorizon.org/our-services/what-we-do> (last visited Mar. 14, 2025) [<https://perma.cc/Q6LJ-FW7R>].

⁶⁸ Wigdor, *supra* note 65.

⁶⁹ *Safe Horizon, Survivors and Lawmakers Rally for Adult Survivors Act Before Session Ends*, SAFE HORIZON SAFE BLOG, <https://www.safehorizon.org/press-statements/safe-horizon-survivors-lawmakers-rally-for-adult-survivors-act> (last visited Dec. 21, 2024) [<https://perma.cc/BUA7-UT2Y>].

⁷⁰ Press Release, Kathy Hochul, Governor of New York, Governor Hochul Signs Adult Survivors Act (May 24, 2022), <https://www.governor.ny.gov/news/governor-hochul-signs-adult-survivors-act> [<https://perma.cc/ZS4N-5UEN>].

⁷¹ N.Y. C.P.L.R. § 214-j.

⁷² Press Release, Kathy Hochul, *supra* note 70.

⁷³ Sexual offenses under the Act include rape in the first, second, or third degree; criminal sexual acts; forcible touching; sexual abuse and aggravated sexual abuse. See N.Y. C.P.L.R. § 214-j; see also N.Y. Penal Law § 130.00 (2024).

⁷⁴ N.Y. C.P.L.R. § 214-j.

2025]

HOSPITALS PAY THE PRICE

471

greater opportunity for victims to obtain monetary compensation, as institutions tend to have deeper pockets than individual abusers.⁷⁵

II. THE PROBLEM: EXISTING MECHANISMS FOR HOLDING HOSPITALS ACCOUNTABLE FOR SEXUAL ABUSE ARE INEFFECTIVE

A. The most practical ways to hold hospitals accountable prior to the NYASA

When it comes to a hospital or medical institution's liability for employee misconduct, existing mechanisms are limited and fall short of providing the justice survivors deserve.⁷⁶ These existing mechanisms are ineffective because they protect the physician and fail to adequately consider the patient's claims.⁷⁷ A hospital's failure to believe a patient stems from the power dynamic in a hospital setting where the doctor controls the patient's medical treatment.⁷⁸ It is likely that institutions will believe the doctor because they are responsible for prescribing the patient with the proper medical care.⁷⁹ This discourages patients from addressing their concerns with the hospital.⁸⁰

However, hospitals are liable for the malpractice of their physicians in limited circumstances⁸¹ and are generally not responsible for their employees sexually assaulting a patient.⁸² For example, in *N.X. v. Cabrini Medical Center*, a surgical resident sexually assaulted a patient recovering from surgery.⁸³ The court held that the resident's actions of sexual assault were "outside the scope of authority" and the hospital would not be liable for his actions.⁸⁴ The court ruled similarly in *Lisa M. v. Henry Mayo Newhall Memorial Hospital*⁸⁵ and *Judith M. v. Sisters of Charity Hospital*.⁸⁶ In *Lisa M.*, the hospital's technician sexually molested a patient during an

⁷⁵ Woodford & Jeffrey, *supra* note 57.

⁷⁶ *Id.*

⁷⁷ *Sexual Abuse in Hospitals & Health Care Facilities*, *supra* note 2.

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ Scutti, *supra* note 34.

⁸¹ Hospitals can be liable for a physician's misconduct when they hire a physician they reasonably knew to be unfit to treat patients. John L.A. Lyddane, *Negligent Hiring and Credentialing in Medical Malpractice Defense*, N.Y. L.J. (Dec. 3, 2022), <https://www.law.com/newyorklawjournal/2020/12/03>.

⁸² John L.A. Lyddane, *Negligent Hiring and Credentialing in Medical Malpractice Defense*, N.Y. L.J. (Dec. 3, 2022), <https://www.law.com/newyorklawjournal/2020/12/03/negligent-hiring-and-credentialing-in-medical-malpractice-defense> [<https://perma.cc/JLK6-YKX8>].

⁸³ *N.X. v. Cabrini Med. Ctr.*, 965 N.E.2d 844 (2002).

⁸⁴ *Id.* at 847.

⁸⁵ *Lisa M. v. Henry Mayo Newhall Mem'l Hosp.*, 907 P.2d 358 (1995).

⁸⁶ *Judith M. v. Sisters of Charity Hosp.*, 715 N.E.2d 95 (1999).

472 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 31:2]

ultrasound.⁸⁷ Since the technician's actions fell outside the scope of his responsibilities, the hospital was not liable for his misconduct.⁸⁸ Likewise, in *Judith M. v. Sisters of Charity Hospital*, since the employee's sexual misconduct deviated "from his duties for solely personal motives unrelated to the furtherance of the hospital's business," the hospital was not responsible for its employee's actions.⁸⁹

A patient who is the victim of sexual abuse by their physician may successfully pursue a claim for negligent hiring, supervision, and retention.⁹⁰ In terms of negligent supervision, hospitals are required to monitor their patients to ensure they are receiving the best quality of care.⁹¹ Negligent supervision refers to a failure to act with reasonable care when there is a duty to supervise.⁹² A leading example of negligent supervision is negligent hiring by hospitals. If the hospital interviews and hires an employee they should have known to be unfit and potentially dangerous to a patient, the hospital can be legally responsible for any injuries and damages the employee may cause.⁹³ In fact, *Maristany v. Patient Support Services* determined that hospitals will be liable for negligent hiring if employers "knew or should have known that [they were] exposing others to the consequences of that misconduct."⁹⁴ When hospitals are aware of a physician's misconduct and fail to act, they fail to satisfy their duty to create a safe environment for patients.⁹⁵ The liability established by *Maristany* does not adequately safeguard patients, as hospitals often fail to verify the credentials of their staff and conduct thorough criminal background checks.⁹⁶ Since the COVID-19 pandemic, hospitals have been understaffed, which has led them to rush hiring processes; this potentially places patients under the care of a dangerous physician.⁹⁷ Despite the pandemic, it is a hospital's duty to hire competent and skilled staff to ensure the standard of care for patients.⁹⁸

⁸⁷ *Lisa M.*, 907 P.2d 358.

⁸⁸ *Id.*

⁸⁹ *Judith M.*, 715 N.E.2d 95 at 96.

⁹⁰ *Lisa M.*, 907 P.2d at 291.

⁹¹ Shorr, *supra* note 23.

⁹² David Hammond, *Negligent Hiring Practices of Hospitals*, CDH L. PLLC (Apr. 26, 2023), <https://lawcdh.com/negligent-hiring-practices-of-hospitals> [<https://perma.cc/2C3H-6BFU>].

⁹³ *Id.*

⁹⁴ *Maristany v. Patient Support Servs., Inc.*, 264 A.D. 2d 302 (1999).

⁹⁵ Shorr, *supra* note 23.

⁹⁶ Cheryl Clark, *Fired Hospital Admin's Story Reveals Flaws in Healthcare Hiring*, MEDPAGE TODAY (Apr. 20, 2023), <https://www.medpagetoday.com/special-reports/exclusives/104122> [<https://perma.cc/YDA6-MVH4>].

⁹⁷ *Id.*

⁹⁸ Hammond, *supra* note 92.

2025]

HOSPITALS PAY THE PRICE

473

Hospitals can also be liable for administrative negligence. Administrative negligence occurs when a hospital administrator fails to implement policies to protect patients from harm, including the failure to fire employees guilty of misconduct.⁹⁹ A hospital can be guilty of administrative negligence when an abuser's supervisor leaves and provides poor documentation or fails to review prior complaints made against the alleged abuser.¹⁰⁰ The new supervisor often gives the alleged abuser the benefit of the doubt.¹⁰¹ Hospitals hesitate to fire doctors accused of misconduct in order to maintain staff and protect their reputations as credible institutions.¹⁰² Moreover, the supervisor who interviews the patient making claims of misconduct generally has no investigative skills, and the human resources representative interviewing the alleged abuser is not trained to investigate assault claims.¹⁰³ Hospitals may believe the doctor over a patient because of the doctor's reputation and status in the medical profession.¹⁰⁴ It may further benefit hospitals to defer to believing a doctor because the institution's reputation would be seriously compromised through an investigation.¹⁰⁵ If multiple complaints were made against the same abuser without the proper documentation, the complaint history may be lost if a new supervisor is assigned.¹⁰⁶

If a victim was able to succeed on claims alleging the hospital's liability and the hospital was made aware of the abuser's assaultive behavior but failed to act, courts may also find the hospital liable for punitive damages.¹⁰⁷ For example, in the Superior Court of California's ruling of *Rosenberg v. Tarzana Medical Center*, "the jury awarded \$65 million in punitive damages, citing the hospital's failure to act upon its notice of a series of sexual assault allegations about a specific employee."¹⁰⁸ This case is an example of a situation where hospital officials were negligent in securing their patient's safety.¹⁰⁹

⁹⁹ *Hospital Administrative Negligence*, LEVENTHAL PUGA BRALEY P.C., <https://www.leventhal-law.com/medical-malpractice/hospital-administrative-negligence.html> (last visited Jan. 17, 2025) [<https://perma.cc/SAC3-JZNA>].

¹⁰⁰ Shorr, *supra* note 23.

¹⁰¹ *Id.*

¹⁰² *Sexual Abuse in Hospitals & Health Care Facilities*, *supra* note 2.

¹⁰³ Shorr, *supra* note 23.

¹⁰⁴ *Sexual Abuse in Hospitals & Health Care Facilities*, *supra* note 2.

¹⁰⁵ *Id.*

¹⁰⁶ Shorr, *supra* note 23.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

B. Ineffectiveness of the OPMC

The Office of Professional Medical Conduct (“OPMC”) is responsible for overseeing complaints of medical misconduct.¹¹⁰ Two-thirds of the board is composed of physicians, and one-third is composed of lay members, including physician assistants.¹¹¹ While physician members are nominated by medical societies, lay persons are appointed by the Commissioner of Health and approved by the Governor.¹¹² While the OPMC is responsible for investigating complaints, doctors are rarely punished.¹¹³ OPMC’s low statistics on punishing abusers were recognized in 2009 when a team of five investigators and a secretary published a memorandum describing the inadequacy of the OPMC.¹¹⁴ The memorandum described how the OPMC favored physicians and how the OPMC shielded them from criminal liability.¹¹⁵ The OPMC likely favored physicians because it wanted to protect the physicians’ institutions from backlash.¹¹⁶ If physicians were exposed for their actions, they would not only face a decreased return rate of patients but also impose a negative perception of their institution’s staff.¹¹⁷ In addition, four former investigators examining medical misconduct stated how OPMC leadership disregarded patient concerns and was focused on closing cases prematurely.¹¹⁸ In fact, “of the 3,377 penalties the board issued from 2007 to 2017 for all complaints, almost three-quarters were negotiated agreements without hearings.”¹¹⁹ This can lead to the OPMC settling a case too early,¹²⁰ as a hearing is an opportunity for all parties to present their case.¹²¹

Moreover, medical coordinators may be inclined to defend an accused physician because they have commonalities. Former staff for the OPMC have disclosed that while the medical coordinator interviews the accused doctor, they would reminisce about their shared experiences, influencing their judgment.¹²² As expressed by a former investigator, “[y]ou find that the

¹¹⁰ *Understanding New York’s Medical Conduct Program - Physician Discipline*, N.Y. STATE DEP’T OF HEALTH, <https://www.health.ny.gov/publications/1445> (last visited Jan. 17, 2025) [<https://perma.cc/WF7L-2VB2>].

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ Eller, *supra* note 14.

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ Eller, *supra* note 14.

¹²⁰ *Id.*

¹²¹ *What is a Hearing?* SNEDAKER LAW, <https://www.snedakerlaw.com/what-is-a-hearing> (last visited Mar. 14, 2025) [<https://perma.cc/VS9Q-7AC8>].

¹²² Eller, *supra* note 14.

2025]

HOSPITALS PAY THE PRICE

475

medical consultant . . . is really looking to rescue the physician,”¹²³ suggesting that the medical coordinator is more concerned with protecting the physician than reporting the truth.

Therefore, the hospitals are failing to protect the best interests of their patients.¹²⁴

C. Case Studies on Pre-NYASA Hospital Accountability

A failure of pre-NYASA mechanisms can be seen in the recent cases of Dr. Hadden and Dr. Paduch. Both were well-respected doctors in New York who sexually abused their patients for years while their employing hospitals looked the other way.¹²⁵

Dr. Hadden was a respected gynecologist at the New York-Presbyterian/Columbia University Medical Center who sexually abused more than 200 patients between 1993 and 2012.¹²⁶ Dr. Hadden’s abuse sometimes occurred with nursing staff in the room, but the nursing staff took no action to stop or report the abuse they witnessed.¹²⁷ This sexual abuse was reported to the hospital by a patient as early as 1994.¹²⁸ The hospital took no action.¹²⁹

In 2012, one of Dr. Hadden’s patients filed a police report, leading to his arrest.¹³⁰ However, no criminal charges were pressed because “there was no substantial physical evidence to prove the allegation.”¹³¹ The hospital was aware of Dr. Hadden’s arrest, yet allowed him to continue conducting gynecological examinations.¹³² In 2014, Dr. Hadden was finally indicted and

¹²³ *Id.*

¹²⁴ *Darius Paduch Sexual Abuse Lawsuit*, THE DIPIETRO L. FIRM, <https://www.levylaw.com/dr-darius-paduch-sexual-abuse-lawsuits> (last visited Jan. 17, 2025) [<https://perma.cc/6T2J-BKQE>].

¹²⁵ *Robert Hadden (Former Dr.) Sexual Assault Lawsuit*, HERMAN L., <https://hermanlaw.com/hospital-sex-abuse-lawyer/robert-hadden> (last updated Nov. 9, 2023), [<https://perma.cc/N7HQ-9MM7>]; Laurence P. Banville, *Dr. Darius Paduch Sexual Abuse Lawsuit: New York-Presbyterian and Northwell Health Accused of Ignoring Reports of Misconduct*, ABUSE GUARDIAN LEGAL NEWS (Aug. 9, 2023), <https://abuseguardian.legalexaminer.com/legal/dr-darius-paduch-sexual-abuse-lawyer> [<https://perma.cc/DE9C-SV5P>].

¹²⁶ *Robert Hadden (Former Dr.) Sexual Assault Lawsuit*, *supra* note 125.

¹²⁷ Dylan Andres, *Hundreds of Hadden Patients Sue Columbia and His Former Supervisors*, COLUMBIA SPECTATOR (Oct. 12, 2023, 1:13 AM), <https://www.columbiaspectator.com/news/2023/10/12/hundreds-of-hadden-patients-sue-columbia-and-his-former-supervisors/> [<https://perma.cc/QW9E-8CTK>].

¹²⁸ *Robert Hadden (Former Dr.) Sexual Assault Lawsuit*, *supra* note 125.

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Dr. Robert Hadden: Timeline of Sexual Abuse Cases*, THE DIPIETRO L. FIRM, <https://www.atdlaw.com/blog/dr-robert-hadden-timeline-of-sexual-abuse-cases> (last visited Jan. 17, 2025) [<https://perma.cc/D23S-4AK2>].

¹³² *Robert Hadden (Former Dr.) Sexual Assault Lawsuit*, *supra* note 125.

476 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 31:2]

eventually convicted in 2016 after pleading guilty.¹³³ However, because Columbia University failed to provide subpoenaed documents and information about potential additional victims, Dr. Hadden avoided jail time.¹³⁴ Instead, he surrendered his medical license and was registered as a sex offender in New York State.¹³⁵ In 2023—more than three decades after his sexual abuse was initially reported to the hospital—Dr. Hadden was sentenced in federal court to twenty years in prison “for enticing and inducing [four] victims to travel interstate to be sexually abused.”¹³⁶

Hospital staff including Jane Booth, Patricia Catapano, and John Evanko aided and abetted Dr. Hadden by allowing him to continue treating patients.¹³⁷ They were aware of the abuse Dr. Hadden inflicted on his patients yet failed to report his actions to the state medical board.¹³⁸ Columbia engaged in a “catch and kill strategy” to protect Dr. Hadden and the hospital’s reputation.¹³⁹ When a complaint was brought to the hospital’s attention, the hospital encouraged patients to speak with the university’s legal department.¹⁴⁰ The legal department would then offer patients financial reparations with the condition of signing a non-disclosure agreement (“NDA”), which prohibited the patients from filing lawsuits against it.¹⁴¹ Columbia’s strategy was unlawful as it attempted to prevent its patients, now victims of sexual misconduct, from reporting the crimes to the police or the District Attorney’s Office.¹⁴² Columbia silenced these victims, committing an obstruction of justice.¹⁴³

Dr. Paduch was a respected urologist and male infertility specialist at New York Presbyterian Hospital Weill Cornell Center in New York City from 2003 to 2019 and Northwell Health on Long Island from 2019 to 2023.¹⁴⁴ Dr. Paduch exploited his position to “attempt to make the victims believe that the sexual abuse he inflicted on them was medically necessary

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ Andres, *supra* note 127.

¹³⁸ *Id.*

¹³⁹ *Columbia University and NYP Hospital Play “Catch & Kill” with Sexual Assault Survivors — This is Why NDAs Should be Illegal*, THE DIPIETRO L. FIRM, <https://www.atdlaw.com/blog/columbia-hadden-nyphospital-nda> (last visited Dec. 21, 2024) [<https://perma.cc/8ZLL-ZYDG>].

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Dr. Darius Paduch Sexual Abuse Lawsuits*, LEVY KONIGSBERG, <https://www.levylaw.com/dr-darius-paduch-sexual-abuse-lawsuits> (last visited Dec. 21, 2024) [<https://perma.cc/E5MJ-D4LC>].

2025]

HOSPITALS PAY THE PRICE

477

and appropriate when, in fact, it was not.”¹⁴⁵ Dr. Paduch’s abuse began in 2006 and continued for more than a decade despite complaints from patients and coworkers to the hospitals.¹⁴⁶ For instance, Dr. Joseph Fins, a Weill Cornell Medical Ethics Officer, covered up claims against Dr. Paduch.¹⁴⁷ He “had hospital lawyers try to buy the victim’s silence.”¹⁴⁸ Fins’ concealment of the abuse allowed Dr. Paduch to continue abusing patients.¹⁴⁹ In addition, one complaint was read in a 2012 letter to Presbyterian Weill Cornell Medical Center describing a urology nurse’s traumatic experience with Dr. Paduch.¹⁵⁰ The nurse expressed how Dr. Paduch “would often use sexually explicit language and had exposed his buttocks to an employee.”¹⁵¹ Nonetheless, it is unknown whether the hospital penalized Dr. Paduch at the time of the complaint.¹⁵² Despite this, it is probable that no investigative steps were taken as Dr. Paduch continued treating patients until he was indicted in April 2023.¹⁵³ Moreover, in 2020, one plaintiff testified that they talked with Northwell Health officials to “address the doctors’ history of alleged abuse while employed with New York Presbyterian.”¹⁵⁴ However, no action was taken as Dr. Paduch was permitted to “continue with his pattern of misconduct.”¹⁵⁵

Like Dr. Hadden, Dr. Paduch is facing federal charges.¹⁵⁶ On April 11, 2023, Dr. Paduch was arrested by the Federal Bureau of Investigation after he was indicted with four counts of unlawful sexual activity for continuously abusing two former patients.¹⁵⁷ The indictment explains in thorough detail that Dr. Paduch mistreated his patients for years and concealed his abuse by convincing patients he was performing appropriate medical treatment.¹⁵⁸ On

¹⁴⁵ Press Release, Off. of U.S. Att’y S.D.N.Y., Urologist Charged In Superseding Indictment With Sexually Abusing Eight Patients, Including Minors (Oct. 24, 2023), <https://www.justice.gov/usao-sdny/pr/urologist-charged-superseding-indictment-sexually-abusing-eight-patients-including> [https://perma.cc/U28E-F3SU] [hereinafter SDNY Press Release].

¹⁴⁶ Banville, *supra* note 125.

¹⁴⁷ Priscilla DeGregory, *NYC Urologist Darius Paduch Accused of Sexual Abuse Wanted to ‘Inflict Pain’ on Patients, Got Them Hooked on Opioids: Suit*, N.Y. POST (Sept. 28, 2023, 7:55 PM), <https://nypost.com/2023/09/28/nyc-urologist-darius-paduch-wanted-to-inflict-pain-on-patients-suit/> [https://perma.cc/KQ82-JAR3].

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ Banville, *supra* note 125.

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *Dr. Darius Paduch Sexual Abuse Lawsuits*, LEVY KONIGSBERG, <https://www.levylaw.com/dr-darius-paduch-sexual-abuse-lawsuits> (last visited Dec. 21, 2024) [https://perma.cc/E5MJ-D4LC]. /

¹⁵⁴ Banville, *supra* note 125.

¹⁵⁵ *Id.*

¹⁵⁶ SDNY Press Release, *supra* note 145.

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

478 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 31:2]

October 24, 2023, Damian Williams, the U.S. Attorney for the Southern District of New York, announced that a grand jury returned a superseding indictment,¹⁵⁹ charging Dr. Paduch with “seven counts of inducing a person to engage in unlawful sexual activity and six counts of inducing a minor to engage in unlawful sexual activity.”¹⁶⁰ The superseding indictment described Dr. Paduch as a serial sexual abuser who victimized his patients to gratify his own desires.¹⁶¹ The jury found Dr. Paduch guilty on all thirteen counts related to the gruesome abuse he imposed upon his patients.¹⁶² The conviction emphasized that Dr. Paduch’s actions will not be overlooked.¹⁶³ In November 2024, Dr. Paduch was sentenced to life in prison.¹⁶⁴

Before the NYASA was enacted, hospitals were not often held accountable for the misconduct of their employees, even when the staff aided and abetted the abuse.¹⁶⁵ Dr. Hadden and Paduch were both respected doctors with credible reputations among patients and hospital staff.¹⁶⁶ They used their positions of power to exploit their patients.¹⁶⁷ For example, Evelyn Yang, a victim of Dr. Hadden’s abuse, admitted that despite Hadden’s inappropriate questions about sexual relations with her husband, she kept returning to him because she knew he was a respected doctor.¹⁶⁸ Additionally, Tucker Coborn, a victim of Dr. Paduch, admitted that after Dr. Paduch forced him to masturbate in front of him, he questioned his body and blamed himself for the incident.¹⁶⁹

¹⁵⁹ A superseding indictment is a statement brought by a grand jury that adds/removes charges from a previously filed indictment.

¹⁶⁰ SDNY Press Release, *supra* note 145.

¹⁶¹ *Id.*

¹⁶² Priscilla DeGregory, *NYC Urologist Darius Paduch Accused of Sexual Abuse Wanted to ‘Inflict Pain’ on Patients, Got Them Hooked on Opioids: Suit*, N.Y. POST (Sept. 28, 2023, 7:55 PM), <https://nypost.com/2023/09/28/nyc-urologist-darius-paduch-wanted-to-inflict-pain-on-patients-suit> [<https://perma.cc/KQ82-JAR3>].

¹⁶³ *Id.*

¹⁶⁴ *Former Dr. Darius Paduch Sentenced to Life in Prison*, PFAU COCHRAN VERTETIS AMALA PLLC, (Nov. 21, 2024), <https://www.pcva.law/news/former-dr-darius-paduch-sentenced-to-life-in-prison> [<https://perma.cc/6K6C-LKWG>].

¹⁶⁵ *Robert Hadden (Former Dr.) Sexual Assault Lawsuit*, *supra* note 125; *see also* Banville, *supra* note 125.

¹⁶⁶ Dana Bash, Bridget Nolan, Neil Black & Patricia DiCarlo, *Exclusive: Evelyn Yang Reveals She Was Sexually Assaulted by Her OB-GYN While Pregnant*, CNN POLITICS (Jan. 17, 2020, 2:06 AM), <https://www.cnn.com/2020/01/16/politics/evelyn-yang-interview-assault/index.html> [<https://perma.cc/Z7MD-TZDK>].

¹⁶⁷ *Robert Hadden (Former Dr.) Sexual Assault Lawsuit*, *supra* note 125; *see also* Banville, *supra* note 125.

¹⁶⁸ Bash, Nolan, Black & DiCarlo, *supra* note 166.

¹⁶⁹ Jessica Moore, *New York Urologist Dr. Darius Paduch Accused of Rampant Sexual Abuse of Patients*, CBS NEWS (Apr. 11, 2023, 6:45 PM), <https://www.cbsnews.com/newyork/news/new-york-urologist-dr-darius-paduch-accused-of-alleged-rampant-sexual-abuse-of-patients/> [<https://perma.cc/MDJ3-DP82>].

Furthermore, each hospital failed to notify patients after Dr. Hadden and Dr. Paduch's sexual misconduct came to light.¹⁷⁰ The failure to notify was likely done to prevent patients from filing more claims under the NYASA.¹⁷¹ On October 3, 2023, more than 100 medical students and survivors of Hadden's abuse held a protest, shouting "notify the patients."¹⁷² Notifying the patients was essential because survivors were likely not aware of the November 2023 deadline to file a claim.¹⁷³ Survivors of sexual violence may disconnect and isolate themselves from society.¹⁷⁴ Since survivors desire safety and protection, they may potentially shield the questioning of others regarding their attack, leading to the decision to withdraw from social activities.¹⁷⁵ Hence, if a victim is trapped in their own isolation, they may disregard the news around them.¹⁷⁶

Turning to Dr. Paduch, in October of 2023, forty-five survivors of Dr. Paduch's abuse wrote a letter to James V. McDonald, the Health Commissioner of the New York State Department of Health.¹⁷⁷ Survivors emphasized the importance of informing patients about Dr. Paduch's abuse as they deserve to know the truth and whether their medical treatment was purely a part of Dr. Paduch's abuse.¹⁷⁸

Overall, the hospitals that Dr. Hadden and Dr. Paduch worked for knowingly concealed the physicians' conduct and placed patients in great danger.¹⁷⁹ Since Dr. Hadden and Dr. Paduch were incarcerated and the

¹⁷⁰ *PCVA Files 19 More Sex Abuse Lawsuits Against Urologist Dr. Darius Paduch*, PFAU COCHRAN VERTETIS AMALA PLLC (Oct. 19, 2023), <https://www.pcva.law/news/pcva-files-19-more-sex-abuse-lawsuits-against-urologist-dr-darius-paduch>. See also Priscilla DeGregory, *Columbia Admits it 'Failed' Ex-Doctor Robert Hadden Victims*, N.Y. POST (Nov. 14, 2023, 2:31 PM), <https://nypost.com/2023/11/14/news/columbia-admits-it-failed-ex-doctor-robert-hadden-victims> [<https://perma.cc/KQ82-JAR3>].

¹⁷¹ See generally *PCVA Files 19 More Sex Abuse Lawsuits Against Urologist Dr. Darius Paduch*, *supra* note 170; DeGregory, *supra* note 170.

¹⁷² Bianca Fortis, *Columbia University Deals with Revelations About Its Decadeslong Failure to Stop a Predator*, PROPUBLICA (Oct. 12, 2023, 5:00 AM), <https://www.propublica.org/article/columbia-obgyn-abuse-university-students-response> [<https://perma.cc/SV6V-N395>] [hereinafter Fortis, *Columbia University Deals with Revelations*].

¹⁷³ *Id.*

¹⁷⁴ Lori S. Katz, *Why Victims of Sexual Trauma Feel Alone and Isolated*, PSYCH. TODAY (Aug. 18, 2019), <https://www.psychologytoday.com/us/blog/healing-sexual-trauma/201908/why-victims-sexual-trauma-feel-alone-and-isolated>.

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ Maya Kaufman, *Sex Abuse Survivors Call on State to Probe Hospitals' Handling of Doctor Misconduct*, POLITICO (Oct. 23, 2023, 10:00 AM), <https://www.politico.com/newsletters/weekly-new-york-health-care/2023/10/23/sex-abuse-survivors-call-on-state-to-investigate-hospitals-00122954> [<https://perma.cc/756P-LVKH>].

¹⁷⁸ *Id.*

¹⁷⁹ *Robert Hadden (Former Dr.) Sexual Assault Lawsuit*, *supra* note 125; Banville, *supra* note 125.

480 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 31:2]

hospitals were held liable for their actions, more instances of hospital misconduct have come to light.¹⁸⁰

III. PROPOSAL: THE NYASA MUST BE EXPANDED TO OFFER A LONGER LOOK-BACK WINDOW FOR VICTIMS OF SEXUAL ABUSE.

During the one-year look-back window, victims were able to seek justice: approximately 3,365 claims were filed between November 2022 and November 2023.¹⁸¹ But the look-back window, allowing adult victims of sexual abuse to file claims against their abusers and their institutions despite an existing time bar, ended in November 2023.¹⁸² Now, some of those adult victims are unable to file a claim.

Supporters of the law and advocates for survivors have called for the look-back window's expansion.¹⁸³ According to PCVA Law, the firm representing Dr. Paduch's patients, the one-year filing deadline was inadequate.¹⁸⁴ Since Dr. Paduch's arrest in April of 2023, the firm has continued to receive an increase in calls from victims and believes the calls will continue into 2024.¹⁸⁵ In fact, on September 4, 2024, 143 new civil cases were filed against Weill Cornell and Northwell Health for concealing Dr. Paduch's abuse.¹⁸⁶ Additionally, the Crumiller Firm, a feminist litigation firm that represents victims of abuse,¹⁸⁷ addresses the importance of extending the NYASA.¹⁸⁸ The Crumiller firm has received dozens of calls since NYASA's expiration, and potential clients are now learning about their legal rights under the act.¹⁸⁹ Many victims were unable to hire a lawyer before the deadline.¹⁹⁰

¹⁸⁰ Lauren Mascarenhas, *New York Doctor is Charged with Drugging and Assaulting Patients*, CNN (Aug. 8, 2023, 5:56 PM), <https://amp.cnn.com/cnn/2023/08/08/us/queens-doctor-charged-sexual-assault/index.html> [<https://perma.cc/NN86-26EU>].

¹⁸¹ Rachel Scharf, *NY Jails, Hospitals Sued The Most Under Adult Survivors Act*, LAW360 (Dec. 6, 2023), <https://www.law360.com/articles/1771824/ny-jails-hospitals-sued-the-most-under-adult-survivors-act> [<https://perma.cc/CD43-X33R>].

¹⁸² N.Y. C.P.L.R. § 214-j.

¹⁸³ Eller, *supra* note 14; Hurubie Meko, *A Final Wave of Sex-Abuse Lawsuits as One-Year Window Closes in New York*, N.Y. TIMES (Nov. 27, 2023), <https://www.nytimes.com/2023/11/27/nyregion/adult-survivors-act-lawsuits.html>.

¹⁸⁴ Meko, *supra* note 183.

¹⁸⁵ *Id.*

¹⁸⁶ Marlene Lenthang, *New York City Urologist Convicted of Sexually Abusing Patients Hit with Nearly 150 New Civil Cases*, NBC NEWS (Sept. 4, 2024, 3:30 PM), <https://www.yahoo.com/news/york-city-urologist-convicted-sexually-213035889.html> [<https://perma.cc/HZP9-2V6V>].

¹⁸⁷ *Sexual Harassment & Abuse*, CRUMILLER (2024), <https://crumiller.com/sexual-harassment-abuse> [<https://perma.cc/KM9B-V8U9>].

¹⁸⁸ Norwood & Gerson, *supra* note 5.

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*

2025]

HOSPITALS PAY THE PRICE

481

Due to the projected increase in phone calls and the inability to hire legal counsel, the NYASA should be extended until November 2025. Moreover, TV advertisements continue to be aired from the DiPietro Firm, encouraging individuals abused by Dr. Paduch and Dr. Hadden to join their class action against Weill Cornell and Columbia University.¹⁹¹ These advertisements are frequently raising awareness of the concealment of hospital abuse.¹⁹² Raising awareness about sexual violence and redressing it does not happen overnight; making a difference in encouraging others to report sexual misconduct should not be confined to a one-year timeline.¹⁹³

Expanding the NYASA until November 2025 is essential because it pushes hospitals to implement institutional changes. These lawsuits are exposing the gaps hospitals need to address.¹⁹⁴ For example, one factor that has contributed to the continuing misconduct is the lack of reporting. In 2018, the Federation of State Medical Boards found that medical abuse goes unreported because colleagues “fear retaliation and are restrained by the power dynamics” between trainees and doctors.¹⁹⁵ If a trainee witnesses a physician harass a patient, the trainee fears retaliation and experiences high levels of distress in reporting that co-worker.¹⁹⁶ The way hospitals are structured may allow toxic work cultures to develop and enable abuse.¹⁹⁷

Moreover, laws passed in California and New York demonstrate why the NYASA’s timeline should be expanded. In January 2023, California passed a law titled the Sexual Abuse and Cover-Up Accountability Act,¹⁹⁸ which opened a three-year window for adult survivors of assault to file claims

¹⁹¹ [Lawsuit] Robert Hadden: *Predator Protected by Columbia University*, YOUTUBE (May 8, 2023), <https://www.youtube.com/watch?v=bYjkKgfAcCU> [https://perma.cc/V4QL-S7KZ]; *The DiPietro Law Firm Leads the Charge Against Sexual “Predator” Urologist Dr. Darius Paduch, New York Presbyterian Hospital, Weill Cornell Medical Center and Northwell Health*, YOUTUBE (June 5, 2023), <https://www.youtube.com/watch?v=KT4U26Sb6V4> [https://perma.cc/UNP3-GQWG].

¹⁹² [Lawsuit] Robert Hadden: *Predator Protected by Columbia University*, *supra* note 191; *The DiPietro Law Firm Leads the Charge Against Sexual “Predator” Urologist Dr. Darius A. Paduch, New York Presbyterian Hospital, Weill Cornell Medical Center and Northwell Health*, *supra* note 191.

¹⁹³ [Lawsuit] Robert Hadden: *Predator Protected by Columbia University*, *supra* note 191; *The DiPietro Law Firm Leads the Charge Against Sexual “Predator” Urologist Dr. Darius A. Paduch, New York Presbyterian Hospital, Weill Cornell Medical Center and Northwell Health*, *supra* note 191.

¹⁹⁴ FED’N OF STATE MED. BDS., PHYSICIAN SEXUAL MISCONDUCT: REPORT AND RECOMMENDATIONS OF THE FSMB WORKGROUP ON PHYSICIAN SEXUAL MISCONDUCT (May 2020), <https://www.fsmb.org/siteassets/advocacy/policies/report-of-workgroup-on-sexual-misconduct-adopted-version.pdf> [https://perma.cc/5QZ7-9Z7A].

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

¹⁹⁸ *How is Sexual Abuse Defined in New Assembly Bill 2777?*, FIGHT FOR SURVIVORS A DIV. OF GREENBERG GROSS LLP, <https://www.fightforsurvivors.com/faqs/how-is-sexual-abuse-defined-in-new-assembly-bill> (last visited Nov. 5, 2024) [https://perma.cc/9NDV-LUQM]. The Sexual Abuse and Cover-Up Accountability Act also included a one-year look-back window to file claims of concealment. *Id.*

482 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 31:2]

against an individual or institution for financial damages.¹⁹⁹ Under this Act, claims can be filed until the end of 2026.²⁰⁰ California imposed a longer time window because survivors are greatly traumatized and deserve the opportunity to seek redress without serious time constraints.²⁰¹ California's expansion of the look-back window may have provided an opportunity to let survivors heal if such a suit is healing to them, as it takes time for them to process the agony and distress of assault and then file a legal claim.²⁰²

Additionally, in March of 2023, New York expanded the statute of limitations for the Victims of Gender-Motivated Violence Protection Law ("GMVPL").²⁰³ GMVPL was enacted in 2000.²⁰⁴ Like the NYASA, the GMVPL was passed to allow survivors to speak their truth.²⁰⁵ Due to the psychological, emotional, and economic trauma victims have experienced, the Act created a two-year look-back window for individuals who experienced gender-based violence.²⁰⁶ Crimes under the Act include sexual violence, stalking, and intimate partner violence.²⁰⁷ Ending in March 2025, an individual can sue their perpetrator or the institution that enabled the abuse to occur.²⁰⁸ Although this Act targets individuals who suffer from gender-based crimes, the underlying message applies: providing victims an avenue through which they can seek justice may influence others to report their own incidents of abuse.²⁰⁹

Further, the NYASA has encouraged and empowered victims to come forward.²¹⁰ For instance, in December 2022, Dr. Zhi Allen Chang was arrested for drugging and abusing his patients.²¹¹ Dr. Chang was a

¹⁹⁹ *AB 2777- Extends the Statute of Limitations for Civil Actions Alleging Sexual Assault Occurring On or After A Victim's 18th Birthday*, LIEBERT CASSIDY WHITMORE, (Oct. 18, 2022), <https://www.lcwlegal.com/news/ab-2777-extends-the-statute-of-limitations-for-civil-actions-alleging-sexual-assault-occurring-on-or-after-a-victims-18th-birthday/> [<https://perma.cc/MWW3-H86W>].

²⁰⁰ *Id.*

²⁰¹ *Id.*; *What is California AB 2777 "Sexual Abuse and Cover Up Accountability Act"?* MAISON L., <https://maisonlaw.com/personal-injury/sexual-abuse/ab-2777>.

²⁰² Norwood & Gerson, *supra* note 5.

²⁰³ *Gender Motivated Violence Act*, PHILLIPS & ASSOC., PLLC, <https://www.newyorkcitydiscriminationlawyer.com/gender-motivated-violence-act> (last visited Nov. 5, 2024) [<https://perma.cc/N8ZU-XA5M>].

²⁰⁴ *Id.*

²⁰⁵ *Id.*

²⁰⁶ *Id.*

²⁰⁷ *Id.*

²⁰⁸ *Id.*

²⁰⁹ *Adult Survivors Act – Know Your Rights*, SAFE HORIZON, <https://www.safehorizon.org/adult-survivors-act> (last visited Nov. 5, 2024) [<https://perma.cc/ZU5Z-7MA8>].

²¹⁰ *Id.*

²¹¹ Thomas P. Guiffra, *New York Gastroenterologist Zhi Alan Cheng New York Gastroenterologist Charged with Multiple Counts of Rape and Sexual Assault*, RHEINGOLD GUFFRA RUFFO PLOTKIN & HELLMAN LLP (Aug. 8, 2023), <https://www.rheingoldlaw.com/sexual-abuse-lawsuit/new-york->

2025]

HOSPITALS PAY THE PRICE

483

gastroenterologist at Queens Presbyterian Hospital who drugged and raped his patients.²¹² Like Dr. Hadden and Dr. Paduch, Queens New York Presbyterian was aware of his misconduct yet concealed the assaults that occurred.²¹³ The hospital prioritized its reputation and failed to protect its patients from Dr. Chang's violence.²¹⁴ Hence, expanding the time window for the NYASA will provide greater justice for more victims.

A. The expansion in the statute of limitations is insufficient because it does not help victims whose abuse occurred before 2019

In September 2019, New York increased the statute of limitations for civil actions on certain sex crimes from five years to twenty years.²¹⁵ But any survivors who were assaulted prior to September 2019 still only have five years to file suit.²¹⁶ That is not enough time. Placing a timestamp on disclosure can lead to negative consequences.²¹⁷ Applying pressure on the victim to file a claim is overwhelming and may be harmful.²¹⁸ It is challenging for survivors to disclose their abuse because they have to relive a moment in their life that brought them immense pain.²¹⁹ Additionally, survivors fear that they will be judged and blamed for causing the abuse, which only enhances their feelings of self-doubt and further discourages them from seeking support.²²⁰

Furthermore, those people who experienced abuse prior to September 2019 could be precluded from filing a claim under the NYASA.²²¹ Although over 3,000 claims have been filed under the NYASA,²²² New York has a

gastroenterologist-zhi-alan-cheng-new-york-gastroenterologist-charged-with-multiple-counts-of-rape-and-sexual-assault [<https://perma.cc/6JCS-D8D5>].

²¹² *Id.*

²¹³ Chris Glorioso & Kristinia Pavlovic Sola, *I-Team: Third Indictment for Queens Doc Accused Of Recording Sex Crimes Against Sedated Women*, NBC N.Y. (March 15, 2024), <https://www.nbcnewyork.com/investigations/queens-doctor-rape-zhi-alan-cheng-new-york-presbyterian/5225504> [<https://perma.cc/U553-CJ4L>].

²¹⁴ *Id.*

²¹⁵ Meko, *supra* note 183.

²¹⁶ *Id.*

²¹⁷ Claire T. Kimbley, Daniel W. Cox, Jeffery H. Kahn, & Keith D. Renshaw, *Feeling Pressured to Talk About Trauma: How Pressure to Disclose Alters the Association Between Trauma Disclosure and Posttraumatic Growth*, 36 J. TRAUMATIC STRESS 567 (2023).

²¹⁸ *Id.*

²¹⁹ *Id.*

²²⁰ *Understanding Victim Blaming and Why It's Harmful to Survivors*, WELSH WOMEN'S AID, <https://welshwomensaid.org.uk/news/understanding-victim-blaming-and-why-its-harmful-to-survivors> (last visited Nov. 24, 2024) [<https://perma.cc/F2U4-JN7F>].

²²¹ Kelsey Woodford, *New York Adult Survivors Act*, KATZ BANKS KUMIN (Jan. 21, 2023), <https://katzbanks.com/employment-law-blog/new-york-adult-survivors-act> [<https://perma.cc/L7H9-XSP6>].

²²² *Adult Survivors Act – Know Your Rights*, *supra* note 209.

484 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 31:2]

population of approximately 20 million people.²²³ There is a likelihood that out of those 20 million people, a group of people fall within the shortened statute of limitations as one in every six women has been the victim of sexual violence.²²⁴ It is also possible that these victims were not aware of the filing deadline under the NYASA or, if they were, may have had difficulty finding a lawyer.²²⁵ These individuals are being deprived of justice and an opportunity to confront their abuser and the institution that negatively impacted their lives.

Critics have opposed the idea of expanding the look-back window.²²⁶ One reason critics oppose the NYASA is that if the assault happened years ago, it is difficult for the victim to remember details and the defendant may be wrongfully accused.²²⁷ They further emphasize that statutes of limitations exist because it would be unfair to the defendant to be liable indefinitely.²²⁸ It would be unfair to the defendant because a witness's memory can fade over time²²⁹ and the statute of limitations is meant to create finality; it is essential that cases are filed within a reasonable time frame to ensure fairness for all parties involved.²³⁰ Nonetheless, "highly stressful and traumatic experiences, at least their most central details, don't tend to fade over time."²³¹ For example, Tracy Shors, a neuroscience professor, co-authored a study that demonstrated how "memories of sexual violence also tended to linger, with victims reporting significantly more ruminations of the incident" as compared to those who experienced other stressful events.²³² Shors explains that bringing up a distressful memory, such as sexual violence, actually

²²³ N.Y. CENSUS BUREAU, https://data.census.gov/profile/New_York?g=040XX00US36 (last visited Jan. 17, 2025) [<https://perma.cc/2J92-8C2K>].

²²⁴ *Scope of the Problem: Statistics*, RAINN, <https://rainn.org/statistics/scope-problem> (last visited Nov. 24, 2024) [<https://perma.cc/T3R4-8XGL>].

²²⁵ Norwood & Gerson, *supra* note 5.

²²⁶ Betsy McCaughey, *No, New York Lawmakers Shouldn't Extend the Unjust Adult Survivors Act*, N.Y. POST (Dec. 4, 2023, 4:39 PM), <https://nypost.com/2023/12/04/opinion/no-new-york-shouldnt-extend-the-adult-survivors-act/> [<https://perma.cc/S3QU-HXAU>].

²²⁷ *Id.*

²²⁸ *Id.*

²²⁹ *Criminal Statute of Limitations in California*, EISNER GORIN LLP, <https://www.egattorneys.com/california-statute-of-limitations> (last visited Nov. 24, 2024) [<https://perma.cc/PBN2-6547>].

²³⁰ *Statute of Limitations*, SCI. DIRECT, <https://www.sciencedirect.com/topics/social-sciences/statute-of-limitations> (last visited Dec. 30, 2024) [<https://perma.cc/JF4Z-SFWM>].

²³¹ Jim Hopper, *How Reliable Are the Memories of Sexual Assault Victims*, LIVE SCI. (Sept. 27, 2018), <https://www.livescience.com/63696-memories-of-sexual-assault-victims.html> [<https://perma.cc/K8A5-UX8R>].

²³² Jessica Ravits & Arman Azad, *Memories That Last: What Sexual Assault Survivors Remember and Why*, CNN (Sept. 21, 2018, 7:21 AM), <https://www.cnn.com/2018/09/21/health/memory-sexual-assault-ptsd/index.html> [<https://perma.cc/VK83-ZL4D>].

2025]

HOSPITALS PAY THE PRICE

485

creates new memories, because the distressing memory is continuously being brought into the forefront of one's mind.²³³

Additionally, evidence can be used retroactively.²³⁴ First, a sexual assault forensic exam can be used to track the incident.²³⁵ Even if an individual's DNA sample no longer exists, there may be records from the emergency room that could help bolster the claimant's case and verify that the attack occurred.²³⁶ Second, firsthand contemporaneous records, such as a diary entry during the time of the attack, may help to hold the perpetrator accountable.²³⁷ Third, secondhand testimony, including any statements from friends or family, can be crucial in corroborating the victim's story.²³⁸ Fourth, if a therapist notices a change in the victim's disposition after the attack, it may be valuable evidence in proving that the attack has a negative effect on the victim's emotional well-being.²³⁹ Lastly, traditional evidence (such as physical objects, video evidence, and voicemails) can be used to demonstrate the timeline of the incident.²⁴⁰

B. The NYASA Provides a More Effective Avenue to Hold Hospitals Accountable

Existing mechanisms for holding hospitals accountable for the sexual misconduct of their doctors are not nearly as effective as the NYASA, which created a different path for suing an institution. The cases of Dr. Hadden and Dr. Paduch illustrate this.²⁴¹

With Dr. Hadden now in prison, at least 300 survivors of his abuse have sought justice by filing a lawsuit against Columbia University and hospital officials on October 3, 2023.²⁴² Columbia Hospital failed to call patients and notify them of Dr. Hadden's abuse.²⁴³

On November 13, 2023, Columbia University and Columbia University Irving Medical Center published a multi-step plan to further investigate Dr.

²³³ *Id.*

²³⁴ Alicja Hagopian, *What to Know About the Adult Survivors Act, New York's New Law Allowing Civil Suits over Past Sexual Abuse*, GOTHAM GAZETTE (Dec. 15, 2022), <https://www.gothamgazette.com/state/11706-adult-survivors-act-new-york-law-civil-suits-sexual-abuse> [<https://perma.cc/KZf7-7ZEM>].

²³⁵ *Id.*

²³⁶ *Id.*

²³⁷ *Id.*

²³⁸ *Id.*

²³⁹ *Id.*

²⁴⁰ Hagopian, *supra* note 234.

²⁴¹ *Robert Hadden (Former Dr.) Sexual Assault Lawsuit*, *supra* note 125; Banville, *supra* note 125.

²⁴² *Robert Hadden (Former Dr.) Sexual Assault Lawsuit*, *supra* note 125.

²⁴³ Andres, *supra* note 127.

486 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 31:2]

Hadden's abuse.²⁴⁴ This plan includes a \$100 million survivors' settlement fund, which opened in January 2024 to provide victims an opportunity to receive a settlement payout.²⁴⁵ Victims have one year to file a claim, which started February 13, 2024.²⁴⁶ To file a claim, one must be a former patient of Dr. Hadden, have not previously settled a claim related to Dr. Hadden against Columbia University, and have not filed a claim for purposes of participating in a class action suit.²⁴⁷ Although this is a step in the right direction, the DiPietro Law Firm, the firm representing Dr. Hadden's victims, states that a \$100 million dollar fund is "pathetically low and woefully inadequate" as victims would only be receiving approximately \$15,000 for the pain they have endured.²⁴⁸ According to the DiPietro Law Firm, Columbia's efforts are the bare minimum, as the institution has previously settled 231 cases against Hadden for approximately \$1.2 million.²⁴⁹ Further, the firm's founder, Anthony DiPietro, states that Columbia's proposal is unfair as they still retain the power to determine how much each victim would receive if victims wanted to be compensated through the settlement fund.²⁵⁰

While a victim can apply to the fund, compensation is not guaranteed.²⁵¹ The compensation is determined by a claim administrator who makes their decision based on the questionnaire victims fill out on the application.²⁵² Moreover, Marissa Hoechstetter, one of Dr. Hadden's victims, expressed her discontent as Columbia's plan was released ten days before the NYASA expired, as well as the fund's value.²⁵³ One-hundred million dollars is low considering the number of victims Dr. Hadden has assaulted.²⁵⁴ Compensation of approximately \$15,0000 per victim is minimal as these survivors have endured immense psychological pain.²⁵⁵ Some patients

²⁴⁴ *Columbia University and CUIMC Announce Multi-Pronged Plan to Address Past Abuses of Robert Hadden and Support Survivors*, COLUMBIA UNIV. IRVING MED. CTR. (Nov. 13, 2023), <https://www.cuimc.columbia.edu/rebuilding-trust/news-updates/columbia-university-and-cuimc-announce-multi-pronged-plan-address-past-abuses-robert-hadden-and-support-survivors> [<https://perma.cc/AZ95-F3SR>].

²⁴⁵ *Id.*

²⁴⁶ *Hadden Settlement Fund*, HADDEN SETTLEMENT FUND, <https://www.haddensettlementfund.com> (last visited Nov. 24, 2024) [<https://perma.cc/9UJK-XNA2>].

²⁴⁷ *Id.*

²⁴⁸ DeGregory, *supra* note 170.

²⁴⁹ *Id.*

²⁵⁰ *Columbia Will Set up Fund for Victims of Doctor Convicted of Sex Crimes, Notify 6,500 Patients*, AP NEWS (Nov. 13, 2023), <https://apnews.com/article/robert-hadden-sex-abuse-columbia-compensation-fund-d0105b9d1e1c1e2f4322e08e58020d77> [<https://perma.cc/P6UX-VP2S>].

²⁵¹ *Hadden Settlement Fund*, *supra* note 246.

²⁵² *Id.*

²⁵³ DeGregory, *supra* note 170.

²⁵⁴ *Id.*

²⁵⁵ *Id.*

2025]

HOSPITALS PAY THE PRICE

487

suffered through the abuse alone, too embarrassed to share their traumatic experience with loved ones;²⁵⁶ patients were in disbelief that a respected doctor, such as Dr. Hadden would engage in such inhumane behavior.²⁵⁷

As for Dr. Paduch, over 100 claims have been filed against New York Presbyterian and Northwell Health since the NYASA's enactment.²⁵⁸ These claims allege that both hospitals showed patterns of negligence and dismissed patients' concerns.²⁵⁹ The hospitals failed to take steps to protect their patients after receiving multiple complaints about Dr. Paduch's sexual misconduct.²⁶⁰ The hospitals were aware of Dr. Paduch's actions in 2017 yet allowed him to treat patients.²⁶¹

Like Columbia University, Weill Cornell has adopted new patient safety guidelines on April 22, 2024.²⁶² Weill Cornell issued a statement expressing disgust over the actions of Dr. Paduch and has asserted its commitment to preventing physician misconduct under the hospital's supervision.²⁶³ These guidelines include new training modules, chaperone requirements, and creating the Office of Professionalism.²⁶⁴ New training modules include observing signs of sexual misconduct, creating a simple process for patients to report harassment, and chaperone requirements involving prominent signage in exam rooms.²⁶⁵ Lastly, the Office of Professionalism will collaborate with stakeholders to ensure communication and accountability.²⁶⁶

IV. CONCLUSION

The NYASA has held hospitals accountable. The cases of Dr. Hadden and Dr. Paduch demonstrate how hospitals have acknowledged their need for

²⁵⁶ Scutti, *supra* note 34.

²⁵⁷ Fortis, *How Columbia Ignored Women*, *supra* note 3.

²⁵⁸ *PCVA Involvement in Dr. Darius Paduch Case*, PFAU COCHRAN VERTETIS AMALA PLLC, <https://drpaduchlawsuit.com>.

²⁵⁹ *Dr. Darius Paduch*, *supra* note 258.

²⁶⁰ *Id.*

²⁶¹ Pilar Melendez, *58 New Victims Accuse 'Sadistic, Perverted,' NYC Doc of Horrific Abuse*, DAILY BEAST (Sept. 28, 2023), <https://www.thedailybeast.com/58-new-victims-accuse-sadistic-nyc-doc-darius-paduch-of-vile-abuse?ref=scroll> [<https://perma.cc/88CZ-F2BK>].

²⁶² Gabriel Muñoz, *Alleged Widespread Sexual Assault by Former Weil Cornell Urologist Prompts Updated Patient Safety Guidelines*, CORNELL DAILY SUN (Apr. 24, 2024), <https://cornellsun.com/2024/04/24/alleged-widespread-sexual-assault-of-patients-by-former-weill-cornell-urologist-prompts-updated-patient-safety-guidelines> [<https://perma.cc/BEZB-7FN>].

²⁶³ *Id.*

²⁶⁴ *Id.*

²⁶⁵ *Id.*

²⁶⁶ *Id.*

488 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 31:2]

transparency and punishment for physicians who perform misconduct.²⁶⁷ Advocates seek to extend the NYASA, as protecting abuse victims is essential for ensuring justice.²⁶⁸ Only having a year to file a claim can be extremely difficult as victims of sexual violence experience severe trauma.²⁶⁹ According to the Rape, Abuse & Incest National Network (“RAINN”), “sexual violence has several psychological, emotional, and physical effects.”²⁷⁰ Patients may be hesitant to report their abuse because they may feel mortified or embarrassed to disclose it.²⁷¹ When patients are abused by a well-respected physician, patients are often likely to feel shame and may convince themselves that the incident was their fault.²⁷² If patients are fearful to report this misconduct, hospitals are not only evading liability but also allowing the physician to potentially traumatize significantly more patients.²⁷³

Therefore, expanding the NYASA is paramount for victims to tell their stories. Extending the NYASA statute of limitations would be beneficial as past mechanisms have been ineffective. As stated previously, it is challenging for patients to file a complaint with the OPMC.²⁷⁴ Thus, expanding the NYASA is the most effective answer to holding hospitals liable for sexual misconduct. With over 3,000 claims filed, expanding the NYASA gives survivors a proper opportunity to act on any institutional mistreatment they have encountered.²⁷⁵

²⁶⁷ Robert Hadden (*Former Dr.*) *Sexual Assault Lawsuit*, *supra* note 125; *see also* Banville, *supra* note 125.

²⁶⁸ Norwood & Gerson, *supra* note 5.

²⁶⁹ *Id.*

²⁷⁰ *Effects of Sexual Violence*, RAINN, <https://www.rainn.org/effects-sexual-violence> (last visited Nov. 24, 2024) [<https://perma.cc/5JKK-95JK>].

²⁷¹ Scutti, *supra* note 34.

²⁷² *Id.*

²⁷³ *Id.*

²⁷⁴ *Id.*; Eller, *supra* note 14.

²⁷⁵ *Adult Survivors Act – Know Your Rights*, *supra* note 209.