

SENATE No. 835

The Commonwealth of Massachusetts

PRESENTED BY:

Eileen M. Donoghue

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act criminalizing sexual assault by fraud by a medical professional.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Eileen M. Donoghue</i>	<i>First Middlesex</i>	
<i>District Attorney Marian T. Ryan</i>	<i>15 Commonwealth Avenue, Woburn, MA 01801</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/24/2017</i>
<i>James R. Miceli</i>	<i>19th Middlesex</i>	<i>1/25/2017</i>
<i>Rady Mom</i>	<i>18th Middlesex</i>	<i>2/1/2017</i>
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>	<i>2/1/2017</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>2/1/2017</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	<i>2/2/2017</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>	<i>2/3/2017</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>	<i>2/3/2017</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>2/3/2017</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>2/14/2017</i>

SENATE No. 835

By Ms. Donoghue, a petition (accompanied by bill, Senate, No. 835) of Eileen M. Donoghue, District Attorney Marian T. Ryan, Jason M. Lewis, James R. Miceli and other members of the General Court for legislation to criminalize sexual assault by fraud by a medical professional. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act criminalizing sexual assault by fraud by a medical professional.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 265 of the General Laws, as appearing in the 2014 Official Edition,
2 is hereby amended by inserting after section 13H the following section:

3 Section 13H ½. Sexual Misconduct on a Patient or Client by a Medical Professional

4 (a) As used in this section, the following words shall, unless the context clearly requires
5 otherwise, have the following meaning:

6 “Medical or health care professional”, an individual who provides professional medical
7 or health services, diagnosis, treatment or counseling, and shall include, but not be limited to,
8 doctors of medicine and osteopathy, dentists, nurses, physician assistants, physical therapists,
9 chiropractors, psychologists, social workers, medical technicians, mental health counselors,
10 substance abuse counselors, clergy members, and marriage and family counselors or therapists.

11 (b) A person who is, or holds themselves out to be, a medical or health care professional,
12 and who commits an indecent assault and battery on a patient or client during the course of
13 diagnosis, counseling, or treatment, where consent to the act was procured by a false
14 representation that the act was for a bona fide medical purpose, shall be punished by
15 imprisonment in the state prison for not more than five years, or by imprisonment for not more
16 than two and one-half years in a jail or house of correction.

17 SECTION 2. Said chapter 265 of the General Laws, as appearing in the 2014 Official
18 Edition, is hereby amended by inserting after section 22C the following section:

19 Section 22D. Rape on a Patient or Client by a Medical Professional

20 (a) As used in this section, the following words shall, unless the context clearly requires
21 otherwise, have the following meaning:

22 “Medical or health care professional”, an individual who provides professional medical
23 or health services, diagnosis, treatment or counseling, and shall include, but not be limited to,
24 doctors of medicine and osteopathy, dentists, nurses, physician assistants, physical therapists,
25 chiropractors, psychologists, social workers, medical technicians, mental health counselors,
26 substance abuse counselors, clergy members, and marriage and family counselors or therapists.

27 (b) A person who is, or holds themselves out to be, a medical or health care professional,
28 and who knowingly induces a patient or client to engage in natural or unnatural sexual
29 intercourse during the course of diagnosis, counseling, or treatment, where consent to the
30 intercourse was procured by a false representation that the act was for a bona fide medical
31 purpose, shall be punished by imprisonment in the state prison for not more than 20 years.

32 SECTION 3. Section 63 of chapter 277 of the General Laws, as appearing in the 2014
33 Official Edition, is hereby amended, in line 27, by striking out the word “13H” and inserting in
34 place thereof the following words:- 13H, 13H½

35 SECTION 4. Said section 63 of chapter 277 of the General Laws, as appearing in the
36 2014 Official Edition, is hereby amended, in line 4, by striking out the word “22A” and inserting
37 in place thereof the following words:- 22A, 22D