

SENATE No. 1031

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

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>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	
<i>Kate Hogan</i>	<i>3rd Middlesex</i>	
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>1/24/2019</i>
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	<i>3/7/2019</i>

SENATE No. 1031

By Mr. Tarr, a petition (accompanied by bill, Senate, No. 1031) of Bruce E. Tarr, Kate Hogan and Michael O. Moore for legislation to criminalize sexual assault by fraud by a medical professional. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

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 2016 Official Edition
2 is hereby amended by inserting after Section 13H the following section:-

3 Section 13H½. Sexual Misconduct on a Patient or Client by a Medical Professional

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

10 (b) Definition. As used in this section, the following words shall have the following
11 meaning:

12 “Medical or health care professional” refers to all individuals who provide professional
13 medical or health services, diagnosis, treatment or counseling, and shall include, but not be
14 limited to, doctors of medicine and osteopathy, dentists, nurses, physician assistants, physical
15 therapists, chiropractors, psychologists, social workers, medical technicians, mental health
16 counselors, substance abuse counselors, clergy members, and marriage and family counselors or
17 therapists.

18 SECTION 2. Said Chapter 265 of the General Laws, as so appearing, is hereby amended
19 by inserting after Section 22C the following section:-

20 Section 22D: Rape on a Patient or Client by a Medical Professional

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

26 (b) Definition. As used in this section, the following words shall have the following
27 meaning:

28 Medical or health care professional refers to all individuals who provide professional
29 medical or health services, diagnosis, treatment or counseling, and shall include, but not be
30 limited to, doctors of medicine and osteopathy, dentists, nurses, physician assistants, physical
31 therapists, chiropractors, psychologists, social workers, medical technicians, mental health
32 counselors, substance abuse counselors, clergy members, and marriage and family counselors or
33 therapists.

34 SECTION 3. Section 63 of Chapter 277 of the General Laws, as appearing in the 2016
35 Official Edition, is hereby amended by striking out, in line 27, the word “13H” and inserting in
36 place thereof the following words:- 13H, 13H ½.

37 SECTION 4. Said Chapter 277 of the General Laws, as so appearing, is hereby amended
38 by striking out, in line 4, the word “22A” and inserting in place thereof the following words:-
39 22A, 22D.