

HOUSE No. 1436

The Commonwealth of Massachusetts

PRESENTED BY:

Kate Hogan

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 of a medical professional.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|--|
| <i>Kate Hogan</i> | <i>3rd Middlesex</i> |
| <i>District Attorney Marian T. Ryan</i> | <i>Office of the Middlesex District Attorney, 15 Commonwealth Avenue, Woburn, MA 01801</i> |
| <i>Hannah Kane</i> | <i>11th Worcester</i> |
| <i>Danielle W. Gregoire</i> | <i>4th Middlesex</i> |
| <i>Carole A. Fiola</i> | <i>6th Bristol</i> |
| <i>Bradley H. Jones, Jr.</i> | <i>20th Middlesex</i> |
| <i>Angelo J. Puppolo, Jr.</i> | <i>12th Hampden</i> |
| <i>Marcos A. Devers</i> | <i>16th Essex</i> |
| <i>Colleen M. Garry</i> | <i>36th Middlesex</i> |
| <i>William L. Crocker, Jr.</i> | <i>2nd Barnstable</i> |
| <i>Elizabeth A. Poirier</i> | <i>14th Bristol</i> |
| <i>David Paul Linsky</i> | <i>5th Middlesex</i> |
| <i>Michael O. Moore</i> | <i>Second Worcester</i> |
| <i>David Allen Robertson</i> | <i>19th Middlesex</i> |
| <i>Kathleen R. LaNatra</i> | <i>12th Plymouth</i> |
| <i>Christine P. Barber</i> | <i>34th Middlesex</i> |

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|------------------------------|---------------------------------------|
| <i>Carolyn C. Dykema</i> | <i>8th Middlesex</i> |
| <i>Ann-Margaret Ferrante</i> | <i>5th Essex</i> |
| <i>Jennifer E. Benson</i> | <i>37th Middlesex</i> |
| <i>Rebecca L. Rausch</i> | <i>Norfolk, Bristol and Middlesex</i> |
| <i>Mindy Domb</i> | <i>3rd Hampshire</i> |
| <i>Nika C. Elugardo</i> | <i>15th Suffolk</i> |
| <i>Natalie M. Blais</i> | <i>1st Franklin</i> |
| <i>Bruce J. Ayers</i> | <i>1st Norfolk</i> |
| <i>Kay Khan</i> | <i>11th Middlesex</i> |
| <i>Lori A. Ehrlich</i> | <i>8th Essex</i> |
| <i>James K. Hawkins</i> | <i>2nd Bristol</i> |
| <i>Michelle M. DuBois</i> | <i>10th Plymouth</i> |

HOUSE No. 1436

By Ms. Hogan of Stow, a petition (accompanied by bill, House, No. 1436) of Kate Hogan and others relative to the penalty imposed for the crime of sexual assault by fraud of 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 of 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.