Complete Trust, Total Violation:
Sexual Assaults Committed by Licensed Professionals
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Sexual assaults committed by licensed professionals to whom victims give **complete trust**, have a **unique personal effect** on those victims when their trust is violated.

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**Trauma from Sexual Assault**

- 94% of women who are raped experience symptoms of **post-traumatic stress disorder** (PTSD) during the two weeks following the rape.
- 33% of women who are raped **contemplate suicide**.
- 38% of victims of sexual violence experience **work or school problems**.
- 37% experience **family/friend problems**.

What Makes Sexual Assault by Licensed Professionals Unique?

• Victim is often alone in the room.
• Victim is trusting of licensed professional.
• Victim is unsuspecting in the moment.
• Victim is often partially clothed.
• Victim may be extremely relaxed or anxious.
• Victim may be unsure if conduct performed was part of treatment or a sexual assault.
• Victim may have their eyes closed.

Trial Testimony by T.T.
January 14, 2013

At that point, as I am lying there with my eyes closed, I am thinking to myself like, 'Oh, my God, is he doing what I think he is doing, what it feels like he is doing,' and so I am fighting with myself in my head trying to understand if this is really feeling. I know this is what I am feeling because I know this is what I am feeling. He was touching my clitoris in a very sexual way and moving his fingers in and out of my vagina very sexually.
More women are speaking out about sexual assaults and abuse committed by licensed professionals. What took so long?
Sexual Assaults by Licensed Professionals Know No Bounds

- Victims can be any age.
- Licensed professional may target mentally, psychologically, and physically vulnerable populations.
- Licensed professional may target victims with drug dependencies.
- Drug dependencies may often be caused by the licensed professional.

What do we know about the rates of reporting sexual conduct committed by licensed professionals?

- The percentage of physicians who commit sexual assault is small, but since many of these doctors are repeat-offenders, they can likely abuse many patients, sometimes over the course of several years or decades.
- Only 1 in 4 women who are sexually assaulted by physicians go to the police, so the number of assaults is likely underestimated.
- Rarely was the person who reported the abuse a colleague of the physician or staff member at his practice. Typically the whistleblower was the patient.
- It's possible that patients who have been violated will feel guilty that they either encouraged this behavior or allowed it to occur.

(Source: MedPage Today, When Docs Sexually Violate Patients, January 25, 2019)

Dozens of men filed similar suits against Ohio State University last summer, alleging that former wrestling team doctor Richard Strauss, MD, sexually abused them while the administration ignored his misconduct. (Source: CNN, https://www.cnn.com/2018/07/17/us/ohio-state-class-action-lawsuit-strauss/index.html)

Meanwhile, a grand jury is investigating George Tyndall, MD, the longtime campus gynecologist at the University of Southern California, after more than 200 women came forward alleging he assaulted them during their appointments. (Source: Los Angeles Times, https://www.latimes.com/local/lanow/la-me-ln-usc-tyndall-grand-jury-20181205-story.html)

All follow the infamous case of Larry Nassar, DO, at Michigan State University, in which over 150 victims testified to being sexually abused by the former U.S.A. Gymnastics team doctor, many of whom had been minors at the time. (Source: Huffington Post, https://www.huffingtonpost.com/entry/larry-nassar-hearing-one-year-later_us_5c2f8280e4b0407e908b0982)

The Psychology of Not Reporting

- "Sexual assault is likely the most under-reported crime in the United States. About two-thirds of female sexual assault victims do not report to the police, and many victims do not tell anyone. Sexual assault is a terrifying and humiliating experience."

- "Women choose not to report for a variety of reasons — fear for their safety, being in shock, fear of not being believed, feeling embarrassed or ashamed, or expecting to be blamed."

Reasons for Delay in Reporting

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• Victims may not understand if they were sexually assaulted.

• The licensed professional may already be touching the sensitive areas for a medical purpose.

20

• Victims may be confused as to why they were assaulted.

• The licensed professional might divert attention to legitimate medical or physical issues during or after sexual conduct.

21
• Victims may be embarrassed or ashamed to report.

• The victim may experience an unexpected physiological reaction to the licensed provider’s conduct.

• Victims may fear that no one would believe their word over the word of a licensed professional if they did report.

• Often, there are no other people in the room, or the people in the room were unaware of the conduct.

• The victim may think they are the only one to experience this conduct.

When a licensed professional is reported to law enforcement and subsequently charged with a crime, often many additional victims come forward to report their abuse once they are aware of an investigation or charges.
People v. Ricardo Arze, L.P.H. Testimony

Q: What happened after you -- what happened after your
18. A: After I spoke with him in regards to why I was
19. Q: There, I left. I took the bus home that day. And I remember
20. A: I went down the street with a guy that I was talking to,
21. Q: And I went to see some movies, and I hadn't told anybody
22. A: But I just didn't feel right the whole day, and
23. Q: So I told him. I said I think -- I think my doctor did
24. A: something to me that wasn't right. And so I had told me
25. Q: You should tell someone, I didn't.

People v. Ricardo Arze, L.P.H. Testimony

Q: What was different about it?
16. A: You know, it
17. A: And what was different about it?
18. Q: And what you say to go in and out of your
19. A: You say to go in and out of your
20. Q: What was different about it?
21. A: And what you say to go in and out of your
22. Q: What was different about it?
23. A: And what you say to go in and out of your
24. Q: And what you say to go in and out of your

People v. Ricardo Arze, L.P.H. Testimony

A: The next day I was watching TV, and at the time
3. Q: Did you talk to your mother?
4. A: Yes.
Even if a licensed professional is reported for committing sexual assault, *the process may move slowly.*

Licensing Boards:
Reporting to state licensing boards may be the first step for a victim.

The Federation of State Medical Boards categorizes sexual misconduct into two categories:

- **Sexual Impropriety** can include watching a patient undress, examining their genital areas without gloves, or making inappropriate comments.
- **Sexual violations** occur when a physician engages in physical sexual contact with the patient (such as kissing, sexual intercourse, or touching any sexualized body part for purposes outside an exam), offers drugs in exchange for sexual acts, masturbates in their presence, or encourages a patient to masturbate.

(Source: Federation of State Medical Boards, https://www.fsmb.org/advocacy/policies/)
How do victims find licensing boards?

How can I report incidents of medical abuse?
If you think you have experienced sexual abuse by a medical professional, there are a few different ways you can report it:
- Call 911 to report to your local law enforcement.
- Contact the hospital, doctor’s office, or facility where you experienced the abuse.
- Report the abuse to your state’s medical licensing board.
(If you reported the abuse and did not get any help, you might want to report to another authority. If you feel comfortable doing so, keep telling people until you get help.)

Illinois Department of Financial and Professional Regulation (IDFPR)

- A victim can file a complaint in person, by phone, by mail, or by going to the IDFPR website.
- Victims are also encouraged to contact law enforcement.
- IDFPR can take disciplinary action (e.g. revocation, suspension, fines) or non-disciplinary action (e.g. warning letter, counseling, administrative fee).
- Anonymous complaints are investigated.
- The process is governed by Illinois’ confidentiality statute.

IDFPR Complaint Form

(Source: Rape, Abuse & Incest National Network, https://www.rainn.org/articles/sexual-abuse-medical-professionals)

Illinois Confidentiality Statute


- All information collected by the Department in the course of an examination or investigation of a licensee, registrant, or applicant, including, but not limited to, any complaint against a licensee or registrant filed with the Department and information collected to investigate any such complaint, shall be maintained for the confidential use of the Department and shall not be disclosed.

- The Department may not disclose the information to anyone other than law enforcement officials, other regulatory agencies that have an appropriate regulatory interest as determined by the Director, or a party presenting a lawful subpoena to the Department.

- Information and documents disclosed to a federal, State, county, or local law enforcement agency shall not be disclosed by the agency for any purpose to any other agency or person.

- A formal complaint filed against a licensee or registrant by the Department or any order issued by the Department against a licensee, registrant, or applicant shall be a public record, except as otherwise prohibited by law.

In some instances, licensing boards may not follow up on all restrictions placed on licensed professionals.

- Licensing boards may lack the funds and resources to make sure any restrictions placed on the licensed professional are enforced in daily practice.

Law Enforcement Investigations:
Reporting to law enforcement may be an additional step for the victim.
• Once reported to law enforcement, victims can face an uphill battle; often it is their word against the word of the licensed professional.

• There are ways for law enforcement to develop evidence.

Additional Evidence

• Sexual assault kits
• Interviews of staff/outcry witness
• Search warrants
• Records from licensing boards
• Personnel records from hospitals, clinics, etc.

Case Study:
Dr. Bruce Smith, OBGYN Practicing in Chicago
People v. Bruce Smith, Timeline

5/1/2000: sexual assault of T.W., police report made
8/2/2002: sexual assault of T.T., police report made
8/8/2002: evidence from T.T. received by lab
9/30/2002: sexual assault of S.S.A., police report made
5/24/2005: lab rules out T.T.’s boyfriend
5/17/2010: DNA from Smith swab matches T.T.’s kit

(T.W. Incident Report)

“...routine exam without gloves inside the vagina...the victim heard the accused’s pants drop...felt the offender pushing his penis against her vagina...grabbing and fondling the victim’s breasts...offender was unable to get a full erection, which made penetration difficult...the doctor stopped...told the victim she could leave because the exam was completed”

(T.T. Incident Report, 8/2/2002)

“...informed victim that he would perform an internal exam...asked her to remove her underwear...she felt vaginal penetration from his penis...while her legs were in the stirrups, the offender’s hands were behind her legs...felt a rocking movement...victim was stunned, scared...could not physically or verbally act out...”
“...she went in for a routine pelvic exam...offender penetrated victim’s vagina with his fingers...offender then locked door...pulled out his penis, put on a condom, and penetrated victim until ejaculation...she was afraid to report sooner.”

(S.S.A. Incident Report, 9/30/2002)

EXHIBIT
1A Blood sample
Blood sample (smeared onto box)
1B Vaginal swab
Smeared sample on swab
1C Hair sample
Not evaluated
1D Pubic hair sample
Not evaluated
1E Bag reportedly containing clothing
Not evaluated

(T.T. Lab Report)

EXHIBIT
2 Panty liner recovered from
not from victim

(T.T. Lab Report)
**People v. Bruce Smith, Timeline**

The following evidence was received by the **People v. Bruce Smith** on May 14, 2005:

**EXHIBIT 3**

Social security Bruce Smith

**RESULT**

DNA from Exhibit 3 was ampliﬁed using the Polymerase Chain Reaction (PCR) and proﬁled as listed on the attached table.

The human sample DNA proﬁle identiﬁed in Exhibit 3 was compared to the human sample DNA proﬁle previously identiﬁed by Dr. Joel Glickman in Exhibit 2B (omitted exhibits).

The human sample DNA proﬁle identiﬁed in Exhibit 1B matches the DNA proﬁle of Bruce Smith. This proﬁle would be expected to occur in approximately 1/10 quadrillion blacks, 1 in 36 quadrillion Whites or 1 in 10 quadrillion Hispanics, excepted minorities.

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**Outcry Witnesses**

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**People v. Bruce Smith, Police Report**

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Additional Evidence
• Grand jury subpoenas for former employment and current employment personnel files
• Grand jury subpoenas for licensing board records including previous hearings
• Search warrants: evidence of buccal swabs, phone records, physical evidence including potential DNA evidence, social media evidence
• Surveillance evidence

Process
• Once the investigation is concluded in Illinois, the case is submitted to the State's Attorney's Office to determine if there is enough evidence to charge.
• If yes, the defendant is arrested and the legal process begins.
• If no, victim should be encouraged to seek counseling, continue with licensing board complaint, but status of case can change if more evidence is developed.

CEO’s of Best Outcomes
• Collaborative dialogue for all agencies with the victim.
• Encourage continuous support of the victim.
• Opportunity for all the victim’s input and concerns to be expressed and responded to throughout the process.
After a licensed professional is charged with a crime, what comes next?

Sometimes, media coverage may favor the accused and vilify the victim(s).

Pre-Trial Motions
- Discovery
- Other Crimes Evidence
- Expert Witness
- Motions in Limine
Evidence of Other Crimes

725 ILCS 5/115-7.3, Evidence in certain cases

(1) the defendant is accused of predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse, criminal sexual abuse, child pornography, criminal transmission of HIV, or child abduction as defined in paragraph (10) of subsection (b) of Section 10-5 of the Criminal Code of 1961 or the Criminal Code of 2012

(c) In weighing the probative value of the evidence against undue prejudice to the defendant, the court may consider:

(1) the proximity in time to the charged or predicate offense;

(2) the degree of factual similarity to the charged or predicate offense; or

(3) other relevant facts and circumstances

The Illinois Supreme Court decided in the case of People v. Shannon Donoho, 204 Ill.2d 159, 788 N.E.2d 707 (2003) that the statute includes the use of other crimes evidence to prove a defendant’s propensity to commit sex crimes.
Motions Relating to the Use of Expert Witnesses

Expert Opinion Letter – Bruce Smith

I am having the following opinions on my personal detailed review of these documents.


People v. Bruce Smith, Response to Motion in Limine

(Excerpts from State’s response to Defendant’s Motion in Limine)
Motions in Limine

Defense should be barred from:

- Mentioning media coverage (if any).
- Mentioning prior sexual activity or reputation of the victim of the sexual offense (725 ILCS 5-115-7).
- Mentioning punishment or possible sentences.
- Questioning of experts regarding any civil judgments against them.
- Mentioning any evidence of testing for sexually transmitted diseases or infections.

Trial
• Prepare and build rapport with the victim from the inception of the case
• Meet with all witnesses before trial including experts
• Review all evidence with witnesses
• Prepare victim for potential cross examination
• Prepare for any potential defenses prior to trial

Victim Testimony

People v. Ricardo Arze, M.S. testimony
Closing Argument

People v. Bruce Smith, Closing Argument (State)

People v. Ricardo Arze, Closing Argument (State)
People v. Ricardo Arze, Closing Argument (State)

isolates
controls
authority
alone
confidence

Jury Instructions

People v. Ricardo Arze, Jury Instructions

A person commits the offense of criminal sexual assault when he commits an act of sexual penetration upon the victim knowing that the victim was unable to give consent to the sexual penetration, and he has reason to believe that the victim was unable to give consent because the victim was unconscious or incapacitated as a result of age, alcohol, drugs, or other means.
People v. Ricardo Arze, Jury Instructions

The word "consent" means a freely given agreement to the act of sexual penetration in question. Lack of verbal or physical resistance or submission by the victim resulting from the use of force or threat of force by the defendant shall not constitute consent.

Prosecutions may result in findings of guilty or not guilty.
Ex-Chicago Gynecologist Sentenced To 18 Years For Raping Patient

Although the rape took place in 2002, Smith wasn’t arrested in the case until 2010, when prosecutors admitted “mistakes were made” in the investigation; Smith’s DNA sample was never taken after the woman immediately reported the attack to police.

Smith’s medical license was suspended for nine months in 2009 after several women came forward, accusing him of sexual misconduct.

One woman said he acted inappropriately toward her, hugging her and telling her she was attractive and was confused why her husband wouldn’t have sex with her, said Lisa Stephens, the former chief of medical prosecutions with the Illinois Department of Financial and Professional Regulation.

Another woman said Smith had penetrated her while performing a vaginal exam in 2000.

Ultimately, Smith’s license was revoked in 2011, according to the Illinois Department of Financial and Professional Regulation.

Smith was never charged in any other case.

(Source: Sun-Times Media Wire, Chicago Sun-Times, 2013)
A former gynecologist was sentenced to 18 years in prison Tuesday for raping his pregnant patient while performing an exam on her in his South Side office.

“How do I describe the feeling of nasty and dirty, never being able to wash that feeling away, never being able to wash him away?” the victim said of the actions of Bruce Sylvester Smith.

The woman said since the Aug. 2, 2002 incident, she is afraid to go to the doctor’s office, the Chicago Sun-Times is reporting.

“I am afraid and paranoid all of the time... Bruce Smith was my doctor, my obstetrician, my gynecologist and I trusted him. I put the health and care of myself and the health and care of my unborn child in his hands, but he violated that trust and he abused his position. He violated me in the worst way possible.”

(Source: Sun-Times Media Wire, Chicago Sun-Times, 2013)
Dr. Ricardo Arze
Former Doctor Sentenced to 13 Years For Raping Patient

Prosecutors said the woman came to Arze’s medical office in the 6000 block of West Cermak Road in Berwyn for a follow-up visit after an illness, and to get a note saying she could return to work, prosecutors said.

Arze told the patient he was going to examine her, but instead of examining her lungs, he had her lay back on a table and sexually assaulted her, prosecutors said.

The woman did not report the incident until 2007, after Arze had been charged with three similar attacks, the State’s Attorney’s Office said. Those cases are pending.

Arze’s medical license was suspended by the Illinois Financial and Professional Regulation Department, and police were later notified that he continued to see patients, authorities said.

He was also charged with practicing medicine without a license.

(Source: Sun-Times Media Wire, Chicago Sun-Times, 2013)

Dr. Charles Dehaan
Doctor charged with sexual assaults sentenced to 9 years for Medicare fraud

Former Doctor Gets 13 Years For Raping Patient
Doctor Accused In Sexual Assaults Gets 9 Years For Medicare Fraud

“A federal judge Thursday sentenced Charles Dehaan to nine years in prison for fraudulently billing Medicare for house calls in which prosecutors allege the Rockford-area doctor molested his home-bound patients.

The sentence was two years shy of the maximum term sought by prosecutors, who maintained that 64-year-old doctor had for years sexually assaulted elderly, seriously ill women during visits to their homes. Dehaan also was ordered to repay $2.7 million prosecutors estimated he overbilled to Medicare.”

(Source: Chicago Sun-Times, 2017)

Foot doctor gets 6-year sentence for sex assaults

“A south suburban foot doctor was sentenced to six years in prison for sexually assaulting a 75-year-old patient in his Chicago office.

Dr. Anthony Overton of Olympia Fields inappropriately touched the patient during an exam for foot and ankle pain in June of 2006. Overton claimed it was part of his normal examination for a sprained ankle and he was checking for signs of cancer.

Three other women testified that Overton subjected them to inappropriate exams.”

(Source: ABC 7 News, May 29, 2008)

Dentist acquitted in 2nd case of fondling allegations, will get license back

“An 81-year-old Northwest Side orthodontist accused of fondling a teenage girl while he was adjusting her braces in 2011 was acquitted Wednesday, a month after he was cleared of committing a similar assault against another patient.”

(Source: Chicago Tribune, Aug 1, 2012)
Masseur found not guilty in salon sex-assault case

Masseur accused of sexually assaulting an Ohio woman during a massage at a Gold Coast salon was found not guilty Wednesday by a Cook County judge.

Dino Botello, 31, of Chicago was charged with criminal sexual assault, criminal sexual abuse and unlawful restraint for allegedly kissing and groping the woman in Kiva Salon, 196 E. Pearson St, during a hot-stone massage in December.

After the verdict, the 33-year-old woman wept loudly and screamed at Botello, “You’re a monster.” He and his family hurried from the courtroom.

During a one-day bench trial in Circuit Court, the victim testified that she was halfway through her massage when Botello assaulted her. She testified that she asked him to stop. He asked her if she was sure she wanted him to stop and then asked that she not tell anyone about the incident, the woman said.

“He said things like this only happen in the movies and sorry, he couldn’t help himself based on how my body reacted,” said the woman, who wept during most of her testimony. “He gave me his card and said if I ever needed any services in the future and kissed me on my forehead.”

Assistant State’s Attys. Annette Milleville and John Carroll argued that Botello had a pattern of taking advantage of unsuspecting women who were left naked and vulnerable on his massage table.

A second woman, who came forward after the victim of the first incident, testified that she was the victim of a similar assault.

The Texas woman said Botello told her that he was having sexual problems with his girlfriend and that “from the way my body responded, he knew it wasn’t [his fault].”

But Botello’s attorney, Elliot Samuels, said the women’s stories were not credible because they did not cry out during the assaults or immediately come forward afterward to say they were assaulted.

The Ohio woman did not initially tell salon employees or the friend who had accompanied her that she had been fondled, according to testimony. The Texas woman gave Botello a $26 tip.

(Source: Chicago Tribune, September 27, 2007)

Regardless of the result of prosecution, the impact of a prosecution can extend beyond criminal findings.

- Victims may feel empowered
- License may be revoked/suspended
- Provides law enforcement a record to be considered for any future bad acts
- May result in licensed specialist becoming too expensive to insure

What are legal and licensing statutes in different jurisdictions?
Illinois

Criminal Statutes:
• Illinois does not mention physicians or licensed professionals in sexual assault or rape statutes.


• People v. Burpo, 647 N.E.2d 996 (Ill. 1995): When gynecologist intentionally exceeds scope of reasonable medical standards, patient's consent is vitiated, and the physician may be prosecuted under sexual assault statute.

Licensing Statutes:
• When a licensed health care worker has been convicted of a criminal battery against any patient in the course of patient care or treatment, including any offense based on sexual conduct, the license shall be permanently revoked without a hearing.


• Illinois requires an initial background check with fingerprinting for licensing.


California

Criminal Statutes:
• The definition of rape includes sexual conduct where the victim is "unconscious of the nature of the act" because of the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no purpose.

(Source: Cal. Penal Code Ann. § 261(a)(4)(d))
California Licensing Statutes:
• The Medical Board shall automatically revoke the license of any person who has been required to register as a sex offender.
  (Source: Cal. Bus. & Prof. Code Ann. § 2232)
• The Medical Board shall disclose to an inquiring member of the public information regarding revocations, suspensions, and probations.
  (Source: Cal. Bus. & Prof. Code Ann. § 803.1(a))

New York Criminal Statutes:
• N.Y. Penal Law § 130.05(3) → A person is deemed incapable of consent when he or she is:
  – (h) a client or patient and the actor is a health care provider or mental health care provider charged with [rape/sexual assault] and the act of sexual conduct occurs during a treatment session, consultation, interview, or examination…

New York Licensing Statute:
• New York state law does not require license revocation for any type of sexual misconduct or convictions.
  (Source: AJC, http://doctors.ajc.com/states/new_york_sex_abuse/)
Texas

Criminal Statute:
• TX PENAL § 22.011(2)(b)(9) → A sexual assault is without the consent of the other person if the actor is a mental health services provider or a health care services provider who causes the person, who is a patient or former patient of the actor, to submit or participate by exploiting the other person’s emotional dependency on the actor.

Licensing Statute:
• Tex. Occ. Code Ann. § 53.021 (b) → a license holder’s license shall be revoked on the license holder's imprisonment following a felony conviction…

Utah

Criminal Statutes:
• U.C.A. 1953 § 75-5-406 → An act of sexual intercourse...is without consent of the victim under any of the following circumstances:
  – (12) the actor is a health professional...the act is committed under the guise of providing professional diagnosis, counseling, or treatment, and at the time of the act the victim reasonably believed that the act was for medically or professionally appropriate diagnosis, counseling, or treatment…
Utah

Licensing Statutes:
• Utah state law does not require revocation for any type of sexual misconduct or conviction.

(Source: AJC, http://doctors.ajc.com/states/utah_sex_abuse/)

Michigan

Criminal Statutes:
• Mich. Comp. Laws Ann. § 750.520b(1)
  (f) Force or coercion includes, but is not limited to, any of the following circumstances:
  • (iv) When the actor engages in the medical treatment or examination of the victim in a manner or for purposes that are medically recognized as unethical or unacceptable.

Michigan

Licensing Statutes:
• Permanent revocation is automatic for doctors found guilty of criminal sexual conduct with a patient.

Florida

Criminal Statutes:
• Fla. Stat. Ann. § 794.011(h) “Sexual battery” means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.

Licensing Statutes:
• There are no mandatory license revocations for any type of sexual misconduct or convictions.
(Source: AJC, http://doctors.ajc.com/states/florida_sex_abuse/)

Minnesota

Criminal Statutes:
• Consent is not a defense where a psychotherapist uses “therapeutic deception” or where an actor uses “false representation” that conduct is for a bona fide medical purpose.
• Consent is a defense for actors performing massage or other bodywork for hire.
(Source: Minn. Stat. Ann. § 609.344)
Licensing Statutes:

- Minn. Stat. Ann. § 147.091(1)(a) →
  A license to practice medicine is automatically revoked if the licensee is convicted of a felony-level criminal sexual conduct offense.

This is more than a domestic issue, it is an international issue.

- Fugitive Brazilian 'rapist doctor' arrested in Paraguay
- Ahmed Adel: "virginity test" doctor acquitted in Egypt
- Irish doctor flies after rape of elderly patient accusation
- Russian doctor rapes patient during Breast Surgery
- Gujarati doctor on run after being accused of rape held in Mumbai
- Doctor charged with rape

Japan

- “The police and courts tend to define rape narrowly, generally pursuing cases only when there are signs of both physical force and self-defense and discouraging complaints when either the assailant or victim has been drinking.”
- “[S]cholars say Japanese women are far less likely to describe nonconsensual sex as rape than women in the West. Japan’s rape laws make no mention of consent, date rape is essentially a foreign concept and education about sexual violence is minimal.”

(Source: New York Times, She Broke Japan’s Silence on Rape, December 29, 2017)
South Africa

- According to a 2009 survey of 1,738 South African men, roughly **1 in 4 admitted to raping someone.**
- In June 2018, the South African Constitutional Court issued a unanimous decision **eliminating time limits for prosecuting any sexual offence in South Africa**, irrespective of when it was committed or the age of the victim.

United Kingdom

- Under Criminal Offence Act of 2003, Section 38, patients with "mental disorders" cannot **consent** to sexual contact with caregivers.
  [Source: Criminal Offence Act of 2003, Section 38]
- There are no sexual assault laws specifically referencing healthcare providers outside the mental health context.
- Both **lay persons** and doctors are required to **serve** on Medical Practitioner Tribunals (which are similar to licensing boards).

Italy

- Most Italian prosecutions are mandatory where there is evidence of a crime, but sexual assault **can only be prosecuted if initiated by the victim** through filing a “Querela di parte.”
- Without this **specific filing** the sexual assault would not be automatically investigated and prosecuted.
- A Querela must be filed within **6 months** of the crime.
  [Source: UK Foreign and Commonwealth Office, www.uk.gov/world/italy]
Australia

- Australian law requires registered health practitioners and employers to report 'notifiable conduct' to the Australian Health Practitioner Regulation Agency.

- 'Notifiable conduct' includes engaging in sexual misconduct in connection with the practice of the profession. This means engaging in sexual misconduct with individuals under a doctor's care or linked to a doctor's practice of their profession.


Potential Legislative Change: Criminal Statutes

- Prohibiting a finding of consent where sexual contact with patient occurred during treatment, examination, or consultation. (New York)

- As the New York Department of Health notes, "A patient cannot give meaningful consent to sexual contact due to the position of trust and disparity of power in the physician-patient relationship."

Representation on Boards

- Licensing boards are overwhelmingly led by men.

- Roughly 2/3 of all state judges are male, including administrative law judges.

- Only Iowa requires gender parity on all boards.

- Despite recommendations from the Federation of State Medical Boards that at least 1/4 of board seats go to consumers, half of states do not comply.
Potential Legislative Changes: Licensing Statutes

- Requiring criminal background checks before and during licensing (Delaware)
- Requiring automatic and permanent license revocation for felony sex offenders (Illinois)
- Requiring gender parity for board seats (Iowa)
- Increasing percentage of board seats held by lay people (U.K.)
- Exploring gender parity for administrative law judges
- Requiring caregivers and staff to report conduct to licensing board (Australia)

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