



Ohio Revised Code

Section 2307.63 Consent as defense in action against mental health professional based on sexual conduct or contact.

Effective: May 14, 2002

Legislation: Senate Bill 9 - 124th General Assembly

(A) In an action for assault or battery brought against a mental health professional that asserts as a claim that, while the plaintiff was a mental health client or patient of the mental health professional, the mental health professional engaged in sexual conduct with, had sexual contact with, or caused one or more other persons to have sexual contact with the plaintiff, the consent of the plaintiff to the sexual conduct or sexual contact is not a defense to the claim unless either of the following applies:

(1) At the time of that sexual conduct or sexual contact, the plaintiff was the spouse of the mental health professional.

(2) The mental health professional proves by a preponderance of the evidence all of the following:

(a) At the time of the sexual conduct or sexual contact, the plaintiff was not emotionally dependent upon the mental health professional.

(b) The plaintiff did not submit to the sexual conduct or sexual contact because of therapeutic deception by the mental health professional or because the mental health professional falsely represented to the plaintiff that the sexual conduct or sexual contact was necessary for medical or mental health purposes.

(B) As used in this section:

(1) "Emotionally dependent" means that the emotional condition of a mental health client or patient of a mental health professional and the treatment provided by the mental health professional to the client or patient are of such a nature that the mental health professional knows or has reason to know that the client or patient is unable to withhold consent to one or more of the following:

(a) Engaging in sexual conduct with the mental health professional;



(b) Having sexual contact with the mental health professional or having sexual contact caused by the mental health professional with one or more other persons.

(2) "Mental health client or patient" has the same meaning as in section 2305.51 of the Revised Code.

(3) "Mental health professional" has the same meaning as in section 2305.115 of the Revised Code.

(4) "Sexual conduct" and "sexual contact" have the same meanings as in section 2907.01 of the Revised Code.

(5) "Therapeutic deception" means a representation by a mental health professional that one or more of the following is consistent with or part of the treatment for a mental health client or patient of the mental health professional:

(a) The client or patient engaging in sexual conduct with the mental health professional;

(b) The client or patient having sexual contact with the mental health professional or having sexual contact caused by the mental health professional with one or more other persons.