

Sexual Assault Prevention

Keeping Patients Safe from Sexual Predators - Part 1

by Ben E. Benjamin, PhD

EVERY YEAR, THERE ARE THOUSANDS OF PATIENT REPORTS OF SEXUAL ASSAULT or inappropriate sexual behavior by massage therapists, and because many chiropractors hire massage therapists to work at their clinics, they have to manage the resulting criminal and civil lawsuits. In order to protect your patients and your business, you have to know how to screen, hire, train, and supervise massage therapists to work in your office, which takes specific knowledge and skills that most chiropractors don't have; however, this series of articles will give you (or lead you to) the tools you need to hire well and protect your patients and your business.

Someone is sexually assaulted in this country every 68 seconds. That translates into one in every six women and one in every 33 men being sexually assaulted every year, totaling over 430,000 reported assaults in 2023. Of those, 90% are female and 10% are male. Considering that 70- 80% of all assaults are never reported, these numbers are unfortunately much lower than reality.

For the past 20 years, I have been an expert witness in cases of sexual assault by a massage therapist. I have a Ph.D. in sports medicine, owned a massage school for 30 years, and am the co-author of one of the primary textbooks on ethics and boundaries called 'The Ethics of Touch'.

Since the early 2000s, many massage therapy schools have been purchased by large corporations and have reduced or totally eliminated the ethics, sexuality, and communication content in their curricula. Unfortunately, this means you can no longer rely on the massage therapist's education because you cannot be sure that students were properly screened and trained in these subjects.

The best protection for a patient's safety, health, and dignity is knowledgeable hiring, training and supervision, and broad-based education of management, staff, and patients about the warning signs and dangers of predatory therapists. This information is essential for both current and future patients, as well as for everyone who hires or teaches employees in hands-on modalities.

There is no doubt that the vast majority of massage therapists who work for chiropractors are honest, hardworking professionals who would never engage in sexual misconduct of any kind. Unfortunately, some individuals who enter our



profession lack the integrity, psychological boundaries, or mental and emotional stability to practice ethically. There are also some schools that behave unethically by accepting anyone who can afford their tuition, with little or no screening or monitoring processes to identify potential perpetrators. It is a few predatory therapists who cause profound damage to patients, as well as the massage profession as a whole. Victims of these crimes often suffer lifelong consequences.

Sexual predators seek out professions in which they can be alone, and unsupervised with the population they are drawn to abusing. Along with the clergy, Boy Scout leaders, and sports coaches, massage therapy is a profession that attracts predators. For this reason, interviewing for a massage therapist position takes a highly knowledgeable interviewer and a skillful hiring process.

Standards of care in the massage therapy profession, and health care in general, develop and evolve over time. While adhering to standards of care may not fully eliminate the risk of sexual misconduct, it puts in place safeguards that do greatly reduce the likelihood of sexual assault or inappropriate behavior. It gives you the tools to weed out many therapists with poor boundaries and predatory tendencies. These safeguards include a rigorous screening and hiring process; thorough orientation and training of new therapists about the culture and values of your business; ongoing supervision of therapists to spot problems before they escalate; and inviting honest feedback from patients through regular email surveys.

To be effective, most of the policies and actions described in these guidelines must be put in place and done authentically—with honesty and sincerity. They should not just be incorporated as lip service to prevent lawsuits but consciously implemented to protect the patients you serve as well as the therapist you have hired. Often, I've seen policies and procedures that look good on paper but aren't followed up on by clinic owners. Guidelines and rules are meaningless if they are not enforced.

Once these measures are put into place, the way to avoid harm to your business and its reputation is to document how you've met or exceeded the standard of care. Although it might seem like a lot of work, it is worth investing the time to clearly put in writing all of your policies, procedures, hiring processes, and training. This will not only protect

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your business but also your therapists and patients in the long run. Just one lawsuit can tie you up in court for years. The resulting stress and expense can be incredibly draining physically, emotionally, and financially.

The articles in this series will tell you how you can adhere to the safest standards of care in massage therapy and will cover hiring, training, and employee guidelines, patient education and complaint follow-up, and mystery shopping as a preventative measure. If you are interested in more detailed information or process templates, please email info@BenjaminInstitute.com. These templates will make it easier for you to do your job and provide the safest, most professional environment.

1. Verbal Interview

A skilled interviewer should ask every massage therapy applicant the same set of interview questions, including challenging red flag questions. Here are a few examples of red flag questions.

- Have you ever had a situation when a patient was inappropriate with you? If yes, how did you handle that?
- Was there ever a time when a patient accused you of being inappropriate during a massage? What was the outcome?
- Do you make friends with your patients? What are the pros and cons of doing this?
- If you ever felt attracted to a patient, how would you handle those feelings?

The answers to these types of questions give you much information if you watch the applicant's eyes, facial expressions, and voice tone. Most interviewers avoid these kinds of questions.

A thorough interview should take between 30 and 60 minutes. Effective interviewing is not easy, but rather a skill that can be learned to greatly benefit your business. Take detailed notes on the verbal interview so that it is clear why you hired the interviewee or not. Questions should address the applicant's understanding of boundaries and communication skills, in addition to the standard questions about customer service, modalities they are skilled at, and the number of hours they can work.

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All answers and notes should also be documented and kept in the therapist's file, if hired, until a minimum of three years after their employment ends. (Verbal Interview template is available by email.)

2. Practical Interview

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therapy, hire an experienced massage therapist or massage teacher from a local massage school to help you do the practical interview. A practical interview is a hands-on demonstration of the prospective therapist's work, with specific criteria as to skills and knowl-

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edge you are looking for. For that reason, it is imperative that the interviewer is well-versed in both massage technique and appropriate patient interaction. They should personally receive

a massage as the prospective therapist would give to your patient. As with the verbal interview, notes should be kept in the applicant's permanent file until a minimum of three years after their employment ends.

If a chiropractor or manager does the interview, they should have years of experience within the environment and/or have been the recipient of countless massages, giving them good sensing and perceptual skills. If the chiropractor or manager is not familiar with the terms and criteria listed in the Practical Interview template and is not able to recognize the nuances of the hands-on techniques, they are not the appropriate person to be doing the practical interview. (Practical Interview template is available by email.)

3. Background Checks

Most states include a criminal background check as part of the licensing process. However, they do not usually include a sex offender check, so it's always safer to do your own background check, especially if it has been six months or more since they were

licensed. Be sure to include a National Criminal Background check, an Unlimited County Background search, and a search of the National Sex Offender Registry. DISA (formerly Crimcheck and other companies will provide this service for chiropractic practices for a reasonable price.

a. Licensing: Check with the appropriate city or state agency to verify that the therapist is licensed. This information is generally available online and takes only a few moments to verify. Licensing Boards often keep records of complaints about therapists so call or email the board to check if this information is available. If you do hire the therapist, keep a copy of their license for their file until a minimum of three years after employment ends. Also, be sure to check your state licensing board's requirements, as some require individual licenses to be visibly displayed on the premises.

b. National Association of Spa Franchises (NASF): The NASF was created in 2021 to prevent massage therapists who have resigned or been terminated because of being sexually inappropriate with a patient from being hired again. Member organizations can submit a search request via the Employment Verification System (EVS) to determine if a potential employee was terminated or resigned because of inappropriate conduct with a patient at a previous job. For a nominal annual fee, the EVS screens applicants through a third-party company called DISA. In the first eighteen months of operation, over 50,000 EVS searches were performed by the NASF member organizations, which resulted in identifying therapists who had a history of being terminated for inappropriate conduct. NASF hopes all companies and clinics that hire massage therapists will join the NASF to help protect both the public and the profession. For more information, visit nationalassociationofspafranchises.com.

a. Liability Insurance: Check that the therapist has liability insurance and keep a copy of their insurance in their personnel file. Membership in various massage organizations like the American Massage Therapy Association (AMTA) or Associated Massage and

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ETHICS

Bodywork Professionals (ABMP) provide insurance as part of their membership.

4. The Internet

In addition to your background and reference check, it should be standard practice to check prospective therapists' activities online and on social media platforms. Training is available on how to scour the internet for this information. You can often find out a lot with a quick search of Google, Facebook, Instagram, and X, and possibly other heavily trafficked, specific-interest platforms such as Parler, Reddit, and Twitch.

In one case I worked on as an expert witness, a search like this would have saved one business a lot of grief. This business did not include this investigative step during the hiring process of a prospective employee, but had they done so, a quick Google search would have revealed an arrest for rape just three years earlier on this man's record. Because of this oversight, the man was hired, and as a result, the business was sued after he sexually abused several women. (Internet Search template is available by email.)

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5. Check References

Always request and check at least three references for the applicant. The best ones are from previous employers or professional associates, not from friends or family. If there is not a long employment history, ask the applicant to supply contact information for the school they attended and at least two of their teachers. Directly ask the employer if they would hire the applicant again. If a previous employer is not forthcoming, analyzing the tone of their voice may give answers. Sometimes you have to be persistent to get someone on the phone who will talk to you. It's worth the extra effort. Document your calls and the responses you get in the employee's file.

Additionally, review the school from where the student graduated and the number of hours they completed to earn their diploma. The absolute minimum should be 500 hours, but 650 to 1000 hours are better. (Most state licensing boards require a minimum number of hours.) You need to verify they did not attend any number of shoddy schools that do minimal training and basically sell diplomas. Additionally, find out if the school curriculum included at least 90 hours of ethics, communication, and business courses, combined. Many of today's corporate schools have eliminated these important courses, which means you will likely have to do some extra training of this new therapist. Also, ask if the therapist has taken continuing education courses and what they were; this shows an interest in developing and increasing their skills.



Ben Benjamin holds a Ph.D. in sports medicine and has been an expert witness in cases of sexual assault in the massage field since 2004. He is the co-author of the Ethics of Touch, a textbook used in schools throughout North America to teach ethics and boundaries to hands-on therapists. To contact Dr. Benjamin email drben@benbenjamin.com or call 617-576-0555.

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