In 1788, Dr. Benedetto Frizzi (1756–1844)—a physician and prolific scholar who had received an unusual education from rabbis, Jesuits, and university professors in Lombardy, northern Italy—published a wide-ranging book on marriage in the Bible. His Dissertazione di polizia medica sul Pentateuco, riguardo alle leggi e stato del matrimonio [A Dissertation on medical policy in the Pentateuch, concerning the laws and state of marriage] offered “many philosophical reflections on relevant rabbinic commentaries and Jewish practices.” Its 24 chapters opened with “the natural instinct for sexual intercourse,” “polygamy,” and “polyandry,” and closed with “castration,” “hermaphrodites,” and “accidental and strange generation.” Other subjects included bodily emissions, masturbation, ritual baths, marriage contract and dowry, adultery, divorce, and repudiation. Throughout, Frizzi focused on: authoritative Biblical and rabbinic texts, Jewish customs past and present, and the most up-to-date approaches of Enlightenment science, medicine, and philosophy. What was Frizzi trying to accomplish in this book, the second of his six volumes of Dissertazione di polizia medica (1787–90)?

These volumes express Frizzi’s commitments as a Jewish Enlightenment physician, swept up with enthusiasm for the Enlightenment as an intellectual and cultural movement for change and for the Habsburg Monarchy’s reform program, especially active in northern Italy. Exposed to the latest trends in medical science and clinical pedagogy at the University of Pavia, Frizzi was greatly influenced by Dr. Johann Peter Frank, founder of the discipline of Polizei-medizin or polizia medica in Central Europe—literally, “medical policy” or “policing,” but perhaps better understood as public health regulation or social medicine. It was in emulation of Frank’s pioneering nine-volume System of a Complete Medical Policy (System einer vollständigen medicinischen Polizey, 1779–1827) that Frizzi
produced his own magnum opus on Biblical law and public health. Frizzi followed Frank’s template in addressing topics such as food, marriage, pregnancy, child-rearing, illness, and death and burial rites, as well as the hygiene of homes and streets. Both physicians considered improvement of the population’s health a vital task for a well-ordered, enlightened state; the fight against unhealthy and superstitious practices by means of public health policy figured as the prime Enlightenment cure for society, with doctors in the lead as the new civic experts, social critics, and secular priests of morality.

As a physician wielding medical science and Enlightenment philosophy, Frizzi sought to serve the public good of the Habsburg realm in general and to reinvigorate Jewish health and society in particular. For some 40 years in the thriving free port of Trieste, he treated patients, spread medical knowledge, and wrote critical expositions of Jewish texts and practices. Through Frizzi’s lens, Moses emerged as the first social physician and Biblical legislation as exemplary public health regulation. Frizzi showed his appreciation of Judaism’s original sources by translating them — sometimes anachronistically — into the more universal and prestigious language of modern science. But he also criticized many ongoing Jewish practices as not reasonable or useful according to Enlightenment criteria.

As both the Dissertation and his own life demonstrate, Frizzi theorized about marriage in terms of modern medicine and Enlightenment concepts; even more, he worked hard to live out those ideals. In writing, Frizzi emphatically sounded many themes of modern marriage: contract, free will, liberty, individual natural rights, companionship, and divorce. From the standpoint of medical policy, he stressed physical and sexual aspects. Marriage is a healthy way to channel the natural sex drive, and natural law recognizes that marriage is a contract between a man and a woman for the purpose of procreation. Still, despite the Jews’ religious valorization of marriage, Frizzi did not think marriage was for everyone. He denounced marriages arranged primarily for economic interest and excoriated parents who forced children into marriage against their will. In his view, such acts of “despotism” violated an individual’s natural right of liberty and led to many moral and physical ills. Companionate marriage required free will and mutual compatibility. He praised Judaism for allowing divorce and remarriage. Somewhat unusually, he considered fidelity as a duty incumbent on both men and women, and he urged equality for women in divorce as well as inheritance.

Frank and Frizzi both charged physicians with the medical and moral duty to promote healthy marriages and to reduce dangerous ones: the danger they had most in mind was venereal
disease. According to the latest understanding, it was recurrent, long-lasting, and incurable, and its spread threatened ruin for individuals, public health, and the entire human species.

Frizzi had the rare opportunity to put his theories into practice. In Trieste, around 1790–91, he became the physician of a Jewish couple in which the husband was stricken by virulent, late-stage venereal disease. In 1793, Rachele Morschene took the pioneering step of seeking separation and divorce from a civil court—a step made possible by the new Habsburg marriage laws of the 1780s that brought all marriages under civil law and created civil divorce for those whose religions permitted divorce (Jews, Protestants, and Greek Orthodox, but not Catholics). Morschene’s claims: Lucio Luzzatto, her husband, had failed to provide economic support and had abandoned his wife and daughter; moreover, his contagious venereal disease had already made his wife seriously ill and posed an ongoing mortal danger to her. On medical authority, she sought legal remedy to escape this violation of her natural rights to life and liberty. Forcefully but deferentially, she asserted: “I too know, though I am a woman, that marriage is a serious matter, as is its dissolution, but I know even more that the first duty of nature is to preserve life.” Morschene eventually obtained both civil and religious divorces.

Life moved on. At some point, doctor and patient became friends—and indeed more. In 1798, they sought permission from Imperial authorities in Vienna for a “purely civil marriage.” Though Habsburg law had brought religious marriage under civil law, it created no civil ceremonies. Jewish leaders would not permit the kohen Frizzi to marry Morschene since the Bible forbids priests to marry repudiated women (Lev. 21:7), and rabbinic law understood repudiated as divorced (Deut. 24:1). Frizzi and Morschene asked Vienna for permission to write their own civil marriage contract in the spirit of natural law—which recognizes that “the true substance of marriage is always and forever dependent upon the sacred bond of nature and the free will of the contracting parties”—and in the true spirit of Jewish law—which they argued prohibited priests from marrying only repudiated, but not all divorced women, and certainly not a woman who had initiated her own civil divorce. In his earlier Dissertation, Frizzi had not thought through the difference between the moral characters of repudiated and divorced women, but now, with more life experience and a pressing personal desire, he emphasized Montesquieu’s distinction between repudiation and divorce. Habsburg officials were convinced, but Jewish authorities never agreed to marry the couple. Only in 1813, under the Napoleonic Code of the French occupiers, was a purely civil and secular marriage ceremony available for this couple (and for their daughter, born in 1801).

A medical approach to marital sexuality; natural rights; the competing claims of individuals, religious communities, and civil law in matters of marriage and divorce; and the emergence of new forms of marriage—don’t these late-18th century phenomena sound familiar to us three centuries later?