

5260

2011-2012 Regular Sessions

I N S E N A T E

May 3, 2011

Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to criminal diversion of prescription medications and prescriptions, establishing the offense of fraudulent prescription, dispensing and procurement of non-controlled substance prescription medications and devices and establishing the offense of unlawful possession of non-controlled substance prescription medications and devices

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraphs (c) and (d) of subdivision 3 of section 178.00
2 of the penal law, as added by chapter 81 of the laws of 1995, are
3 amended to read as follows:
4 (c) RECEIVES, IN EXCHANGE FOR ANYTHING OF PECUNIARY VALUE, A
5 PRESCRIPTION MEDICATION OR DEVICE FROM A LAW ENFORCEMENT OFFICER ACTING
6 IN AN UNDERCOVER CAPACITY OR HIS OR HER AGENT, BELIEVING OR HAVING
7 REASONABLE GROUND TO BELIEVE THAT THE OFFICER OR HIS OR HER AGENT IS
8 SOMEONE WHO IS NOT AUTHORIZED BY LAW TO SELL OR TRANSFER SUCH
9 PRESCRIPTION MEDICATION OR DEVICE; OR
10 (D) transfers or delivers a prescription in exchange for anything of
11 pecuniary value; or
12 [(d)] (E) receives a prescription in exchange for anything of pecuni-
13 ary value.
14 S 2. Paragraph (c) of subdivision 1 of section 178.05 of the penal
15 law, as added by chapter 81 of the laws of 1995, is amended and two new
16 paragraphs (d) and (e) are added to read as follows:
17 (c) a person acting in good faith WHO IS seeking [treatment for a
18 medical condition or assisting another person to obtain treatment for a
19 medical condition] TO OBTAIN A PRESCRIPTION, PRESCRIPTION MEDICATION OR
20 DEVICE THAT HAS BEEN LAWFULLY PRESCRIBED TO HIM OR HER, AND FOR WHICH HE
21 OR SHE HAS A MEDICAL NEED; OR

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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(D) A PERSON ACTING IN GOOD FAITH, WHO REASONABLY BELIEVES THAT HE OR SHE IS ASSISTING ANOTHER PERSON TO OBTAIN A PRESCRIPTION, PRESCRIPTION MEDICATION OR DEVICE THAT HAS BEEN LAWFULLY PRESCRIBED TO THAT OTHER PERSON; OR

(E) A DULY REGISTERED MANUFACTURER OR WHOLESALE OF DRUGS, AS DEFINED IN ARTICLE ONE HUNDRED THIRTY-SEVEN OF THE EDUCATION LAW, ACTING IN GOOD FAITH IN THE LAWFUL COURSE OF HIS OR HER BUSINESS.

S 3. Section 178.10 of the penal law, as added by chapter 81 of the laws of 1995, is amended to read as follows:

S 178.10 Criminal diversion of prescription medications and prescriptions in the [fourth] FIFTH degree.

A person is guilty of criminal diversion of prescription medications and prescriptions in the [fourth] FIFTH degree when he or she commits a criminal diversion act.

Criminal diversion of prescription medications and prescriptions in the [fourth] FIFTH degree is a class A misdemeanor.

S 4. Section 178.15 of the penal law, as added by chapter 81 of the law of 1995, is amended to read as follows:

S 178.15 Criminal diversion of prescription medications and prescriptions in the [third] FOURTH degree.

A person is guilty of criminal diversion of prescription medications and prescriptions in the [third] FOURTH degree when he or she:

1. commits a criminal diversion act, and the value of the benefit exchanged is in excess of one thousand dollars; or

2. commits the crime of criminal diversion of prescription medications and prescriptions in the fourth degree, and has previously been convicted of the crime of criminal diversion of prescription medications and prescriptions [in the fourth degree]; OR

3. COMMITS THE CRIME OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN THE FIFTH DEGREE ON TWO OR MORE OCCASIONS OVER A THIRTY-FIVE DAY PERIOD.

Criminal diversion of prescription medications and prescriptions in the [third] FOURTH degree is a class E felony.

S 5. Section 178.20 of the penal law, as added by chapter 81 of the laws of 1995, is amended to read as follows:

S 178.20 Criminal diversion of prescription medications and prescriptions in the [second] THIRD degree.

A person is guilty of criminal diversion of prescription medications and prescriptions in the [second] THIRD degree when he or she:

1. commits a criminal diversion act, and the value of the benefit exchanged is in excess of three thousand dollars; OR

2. COMMITS THE CRIME OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN THE FIFTH DEGREE ON FOUR OR MORE OCCASIONS OVER A THIRTY-FIVE DAY PERIOD; OR

3. COMMITS THE CRIME OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN THE FIFTH DEGREE, AND IS:

(A) A PHYSICIAN OR OTHER PERSON AUTHORIZED TO ISSUE A PRESCRIPTION; OR

(B) A PHARMACIST OR OTHER PERSON AUTHORIZED TO DISPENSE PRESCRIPTION MEDICATIONS AND DEVICES.

Criminal diversion of prescription medications and prescriptions in the [second] THIRD degree is a class D felony.

S 6. Section 178.25 of the penal law, as added by chapter 81 of the laws of 1995, is amended to read as follows:

S 178.25 Criminal diversion of prescription medications and prescriptions in the [first] SECOND degree.

1 A person is guilty of criminal diversion of prescription medications
2 and prescriptions in the [first] SECOND degree when he or she:

3 1. commits a criminal diversion act, and the value of the benefit
4 exchanged is in excess of fifty thousand dollars; OR

5 2. COMMITS THE CRIME OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS
6 AND PRESCRIPTIONS IN THE FIFTH DEGREE ON SIX OR MORE OCCASIONS OVER A
7 THIRTY-FIVE DAY PERIOD; OR

8 3. COMMITS THE CRIME OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS
9 AND PRESCRIPTIONS IN THE FIFTH DEGREE ON TWO OR MORE OCCASIONS OVER A
10 NINETY DAY PERIOD, AND IS:

11 (A) A PHYSICIAN OR OTHER PERSON AUTHORIZED TO ISSUE A PRESCRIPTION; OR

12 (B) A PHARMACIST OR OTHER PERSON AUTHORIZED TO DISPENSE PRESCRIPTION
13 MEDICATIONS AND DEVICES.

14 Criminal diversion of prescription medications and prescriptions in
15 the [first] SECOND degree is a class C felony.

16 S 7. The penal law is amended by adding a new section 178.30 to read
17 as follows:

18 S 178.30 CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND
19 PRESCRIPTIONS IN THE FIRST DEGREE.

20 A PERSON IS GUILTY OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS
21 AND PRESCRIPTIONS IN THE FIRST DEGREE WHEN HE OR SHE COMMITS THE CRIME
22 OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS OR PRESCRIPTIONS IN
23 THE FIFTH DEGREE ON FIVE OR MORE OCCASIONS OVER A NINETY DAY PERIOD, AND
24 IS:

25 (A) A PHYSICIAN OR OTHER PERSON AUTHORIZED TO ISSUE A PRESCRIPTION; OR

26 (B) A PHARMACIST OR OTHER PERSON AUTHORIZED TO DISPENSE PRESCRIPTION
27 MEDICATIONS AND DEVICES.

28 CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN
29 THE FIRST DEGREE IS A CLASS B FELONY.

30 S 8. The penal law is amended by adding a new article 179 to read as
31 follows:

32 ARTICLE 179

33 FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF
34 NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES
35 SECTION 179.00 DEFINITIONS.

36 179.05 FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF
37 NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND
38 DEVICES IN THE THIRD DEGREE.

39 179.10 FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF
40 NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND
41 DEVICES IN THE SECOND DEGREE.

42 179.15 FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF
43 NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND
44 DEVICES IN THE FIRST DEGREE.

45 S 179.00 DEFINITIONS.

46 THE FOLLOWING DEFINITIONS ARE APPLICABLE TO THIS ARTICLE:

47 1. "PRESCRIPTION MEDICATION OR DEVICE" MEANS ANY ARTICLE FOR WHICH A
48 PRESCRIPTION IS REQUIRED IN ORDER TO BE LAWFULLY SOLD, DELIVERED OR
49 DISTRIBUTED BY ANY PERSON AUTHORIZED BY LAW TO ENGAGE IN THE PRACTICE OF
50 THE PROFESSION OF PHARMACY.

51 2. "PRESCRIPTION" MEANS A DIRECTION OR AUTHORIZATION BY MEANS OF A
52 WRITTEN PRESCRIPTION FORM OR AN ORAL PRESCRIPTION WHICH PERMITS A PERSON
53 TO LAWFULLY OBTAIN A PRESCRIPTION MEDICATION OR DEVICE FROM ANY PERSON
54 AUTHORIZED TO DISPENSE SUCH PRESCRIPTION MEDICATION OR DEVICE.

55 3. "CONTROLLED SUBSTANCE" MEANS ANY SUBSTANCE LISTED IN SCHEDULE I,
56 II, III, IV OR V OF SECTION THIRTY-THREE HUNDRED SIX OF THE PUBLIC

1 HEALTH LAW OTHER THAN MARIHUANA, BUT INCLUDING CONCENTRATED CANNABIS AS
2 DEFINED IN PARAGRAPH (A) OF SUBDIVISION FOUR OF SECTION THIRTY-THREE
3 HUNDRED TWO OF SUCH LAW.

4 4. "DISPENSING" AND "DISPENSES" REFER TO THE DISPENSING OF A
5 PRESCRIPTION MEDICATION OR DEVICE FROM OR WITHIN A PHARMACY, HOSPITAL,
6 PHYSICIAN'S OFFICE, CLINIC OR OTHER PHARMACEUTICAL OR MEDICAL FACILITY.
7 S 179.05 FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF
8 NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES
9 IN THE THIRD DEGREE.

10 A PERSON IS GUILTY OF FRAUDULENT PRESCRIPTION, DISPENSING AND PROCURE-
11 MENT OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN
12 THE THIRD DEGREE WHEN HE OR SHE:

13 1. ISSUES A WRITTEN OR ORAL PRESCRIPTION FOR A NON-CONTROLLED
14 SUBSTANCE PRESCRIPTION MEDICATION OR DEVICE, AND IS NOT A DULY LICENSED
15 PHYSICIAN OR OTHER PERSON AUTHORIZED TO ISSUE SUCH PRESCRIPTION; OR

16 2. DISPENSES A NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATION OR
17 DEVICE, WITH KNOWLEDGE OR REASONABLE GROUNDS TO KNOW THAT:

18 (A) THE PERSON FOR WHOM THE MEDICATION OR DEVICE HAS BEEN PRESCRIBED
19 HAS NO MEDICAL NEED FOR SUCH MEDICATION OR DEVICE; OR

20 (B) NO PRESCRIPTION FOR SUCH MEDICATION OR DEVICE WAS ISSUED BY A DULY
21 LICENSED PHYSICIAN OR OTHER PERSON AUTHORIZED TO ISSUE SUCH
22 PRESCRIPTION; OR

23 (C) THE PRESCRIPTION FOR SUCH MEDICATION OR DEVICE WAS FORGED; OR

24 (D) THE PRESCRIPTION FOR SUCH MEDICATION OR DEVICE WAS ISSUED BY A
25 DULY LICENSED PHYSICIAN OR OTHER PERSON AUTHORIZED TO ISSUE SUCH
26 PRESCRIPTION WHO WAS ACTING OTHER THAN IN GOOD FAITH IN THE LAWFUL
27 COURSE OF HIS OR HER PROFESSIONAL PRACTICE.

28 3. PRESENTS OR SUBMITS A PRESCRIPTION FOR A NON-CONTROLLED SUBSTANCE
29 PRESCRIPTION MEDICATION OR DEVICE TO, OR RECEIVES A NON-CONTROLLED
30 SUBSTANCE PRESCRIPTION MEDICATION OR DEVICE FROM, A DULY LICENSED PHAR-
31 MACIST OR OTHER PERSON AUTHORIZED TO DISPENSE SUCH PRESCRIPTION MEDICA-
32 TION OR DEVICE, WITH KNOWLEDGE OR REASONABLE GROUNDS TO KNOW THAT:

33 (A) THE PERSON FOR WHOM THE MEDICATION OR DEVICE HAS BEEN PRESCRIBED
34 HAS NO MEDICAL NEED FOR SUCH MEDICATION OR DEVICE; OR

35 (B) THE PRESCRIPTION FOR SUCH MEDICATION OR DEVICE WAS NOT ISSUED BY A
36 DULY LICENSED PHYSICIAN OR OTHER PERSON AUTHORIZED TO ISSUE SUCH
37 PRESCRIPTION; OR

38 (C) THE PRESCRIPTION FOR SUCH MEDICATION OR DEVICE WAS FORGED; OR

39 (D) THE PRESCRIPTION FOR SUCH MEDICATION OR DEVICE WAS ISSUED BY A
40 DULY LICENSED PHYSICIAN OR OTHER PERSON AUTHORIZED TO ISSUE SUCH
41 PRESCRIPTION WHO WAS ACTING OTHER THAN IN GOOD FAITH IN THE LAWFUL
42 COURSE OF HIS OR HER PROFESSIONAL PRACTICE.

43 FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF NON-CONTROLLED
44 SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE THIRD DEGREE IS A
45 CLASS D FELONY.

46 S 179.10 FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF
47 NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES
48 IN THE SECOND DEGREE.

49 A PERSON IS GUILTY OF FRAUDULENT PRESCRIPTION, DISPENSING AND PROCURE-
50 MENT OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN
51 THE SECOND DEGREE WHEN HE OR SHE:

52 1. BEING A DULY LICENSED PHYSICIAN OR OTHER PERSON AUTHORIZED TO ISSUE
53 A PRESCRIPTION, ISSUES A WRITTEN OR ORAL PRESCRIPTION FOR A NON-CONT-
54 ROLLED SUBSTANCE PRESCRIPTION MEDICATION OR DEVICE, OR DISPENSES A NON-
55 CONTROLLED SUBSTANCE PRESCRIPTION MEDICATION OR DEVICE:

(A) WITH KNOWLEDGE OR REASONABLE GROUNDS TO KNOW THAT THE PERSON FOR WHOM THE PRESCRIPTION IS WRITTEN, OR TO WHOM THE MEDICATION IS DISPENSED, HAS NO MEDICAL NEED FOR THE MEDICATION OR DEVICE THAT IS BEING PRESCRIBED; OR

(B) OTHER THAN IN GOOD FAITH IN THE LAWFUL COURSE OF HIS OR HER PROFESSIONAL PRACTICE; OR

2. BEING A DULY LICENSED PHARMACIST OR OTHER PERSON AUTHORIZED TO DISPENSE A PRESCRIPTION MEDICATION OR DEVICE, DISPENSES A NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATION OR DEVICE, WITH KNOWLEDGE OR REASONABLE GROUNDS TO KNOW THAT:

(A) THE PERSON FOR WHOM THE MEDICATION OR DEVICE HAS BEEN PRESCRIBED HAS NO MEDICAL NEED FOR SUCH MEDICATION OR DEVICE; OR

(B) THE PRESCRIPTION FOR SUCH MEDICATION OR DEVICE WAS NOT ISSUED BY A DULY LICENSED PHYSICIAN OR OTHER PERSON AUTHORIZED TO ISSUE SUCH PRESCRIPTION; OR

(C) THE PRESCRIPTION FOR SUCH MEDICATION OR DEVICE WAS FORGED; OR

(D) THE PRESCRIPTION FOR SUCH MEDICATION OR DEVICE WAS ISSUED BY A DULY LICENSED PHYSICIAN OR OTHER PERSON AUTHORIZED TO ISSUE SUCH PRESCRIPTION WHO WAS ACTING OTHER THAN IN GOOD FAITH IN THE LAWFUL COURSE OF HIS OR HER PROFESSIONAL PRACTICE.

FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE SECOND DEGREE IS A CLASS C FELONY.

S 179.15 FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIRST DEGREE.

A PERSON IS GUILTY OF FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIRST DEGREE WHEN HE OR SHE, BEING EITHER A DULY LICENSED PHYSICIAN OR OTHER PERSON AUTHORIZED TO ISSUE A PRESCRIPTION, OR A DULY LICENSED PHARMACIST OR OTHER PERSON AUTHORIZED TO DISPENSE A PRESCRIPTION MEDICATION OR DEVICE, COMMITS THE CRIME OF FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE SECOND DEGREE ON TWO OR MORE OCCASIONS WITHIN A NINETY DAY PERIOD.

FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIRST DEGREE IS A CLASS B FELONY.

S 9. Title M of the penal law is amended by adding a new article 219 to read as follows:

ARTICLE 219

UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES

SECTION 219.00 DEFINITIONS.

219.05 LIMITATIONS ON APPLICATION OF ARTICLE.

219.10 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIFTH DEGREE.

219.15 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE FOURTH DEGREE.

219.20 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE THIRD DEGREE.

219.25 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE
PRESCRIPTION MEDICATIONS AND DEVICES IN THE SECOND
DEGREE.

219.30 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE
PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIRST
DEGREE.

S 219.00 DEFINITIONS.

THE FOLLOWING DEFINITIONS ARE APPLICABLE TO THIS ARTICLE:

1. "PRESCRIPTION MEDICATION OR DEVICE" MEANS ANY ARTICLE FOR WHICH A
PRESCRIPTION IS REQUIRED IN ORDER TO BE LAWFULLY SOLD, DELIVERED OR
DISTRIBUTED BY ANY PERSON AUTHORIZED BY LAW TO ENGAGE IN THE PRACTICE OF
THE PROFESSION OF PHARMACY.

2. "PRESCRIPTION" MEANS A DIRECTION OR AUTHORIZATION BY MEANS OF A
WRITTEN PRESCRIPTION FORM OR AN ORAL PRESCRIPTION WHICH PERMITS A PERSON
TO LAWFULLY OBTAIN A PRESCRIPTION MEDICATION OR DEVICE FROM ANY PERSON
AUTHORIZED TO DISPENSE SUCH PRESCRIPTION MEDICATION OR DEVICE.

3. "CONTROLLED SUBSTANCE" MEANS ANY SUBSTANCE LISTED IN SCHEDULE I,
II, III, IV OR V OF SECTION THIRTY-THREE HUNDRED SIX OF THE PUBLIC
HEALTH LAW OTHER THAN MARIHUANA, BUT INCLUDING CONCENTRATED CANNABIS AS
DEFINED IN PARAGRAPH (A) OF SUBDIVISION FOUR OF SECTION THIRTY-THREE
HUNDRED TWO OF SUCH LAW.

4. THE VALUE OF A PRESCRIPTION MEDICATION OR DEVICE SHALL BE EQUIV-
ALENT TO THE FAIR MARKET VALUE OF SUCH MEDICATION OR DEVICE ON THE
LAWFUL RETAIL MARKET, AT ABOUT THE TIME AND PLACE THAT THE CRIME IS
COMMITTED.

S 219.05 LIMITATIONS ON APPLICATION OF ARTICLE.

THE PROVISIONS OF THIS ARTICLE RESTRICTING THE UNLAWFUL POSSESSION OF
NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES SHALL NOT
APPLY:

1. TO COMMON CARRIERS OR TO WAREHOUSEMEN, WHILE ENGAGED IN LAWFULLY
TRANSPORTING OR STORING SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDI-
CATIONS AND DEVICES, OR TO ANY EMPLOYEE OF THE SAME ACTING WITHIN THE
SCOPE OF HIS OR HER EMPLOYMENT; OR

2. TO PUBLIC OFFICERS OR THEIR EMPLOYEES IN THE LAWFUL PERFORMANCE OF
THEIR OFFICIAL DUTIES REQUIRING THE POSSESSION OR CONTROL OF SUCH
NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES; OR

3. TO TEMPORARY INCIDENTAL POSSESSION BY EMPLOYEES OR AGENTS OF
PERSONS LAWFULLY ENTITLED TO POSSESS SUCH NON-CONTROLLED SUBSTANCE
PRESCRIPTION MEDICATIONS AND DEVICES, OR BY PERSONS WHOSE POSSESSION IS
FOR THE PURPOSE OF AIDING PUBLIC OFFICERS IN PERFORMING THEIR OFFICIAL
DUTIES; OR

4. TO A DULY LICENSED PHYSICIAN, DULY LICENSED PHARMACIST OR THE
PERSON AUTHORIZED TO POSSESS OR DISPENSE SUCH NON-CONTROLLED SUBSTANCE
PRESCRIPTION MEDICATIONS AND DEVICES, ACTING IN GOOD FAITH IN THE LAWFUL
COURSE OF HIS OR HER PROFESSION; OR

5. TO TEMPORARY INCIDENTAL POSSESSION BY A PERSON ACTING IN GOOD FAITH
WHO REASONABLY BELIEVES THAT HE OR SHE IS ASSISTING ANOTHER PERSON TO
OBTAIN A NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATION OR DEVICE THAT
HAS BEEN LAWFULLY PRESCRIBED TO THAT OTHER PERSON.

S 219.10 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION
MEDICATIONS AND DEVICES IN THE FIFTH DEGREE.

A PERSON IS GUILTY OF UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE
PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIFTH DEGREE WHEN SUCH
PERSON KNOWINGLY POSSESSES ONE OR MORE NON-CONTROLLED SUBSTANCE
PRESCRIPTION MEDICATIONS OR DEVICES WHICH WERE NOT LAWFULLY PRESCRIBED
TO HIM OR HER; AND

1 1. THE AGGREGATE VALUE OF SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION
2 MEDICATIONS AND DEVICES EXCEEDS TWO HUNDRED DOLLARS; OR

3 2. HE OR SHE POSSESSES TWENTY OR MORE PILLS, TABLETS OR CAPSULES OF
4 SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES.

5 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICA-
6 TIONS AND DEVICES IN THE FIFTH DEGREE IS A CLASS A MISDEMEANOR.

7 S 219.15 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION
8 MEDICATIONS AND DEVICES IN THE FOURTH DEGREE.

9 A PERSON IS GUILTY OF UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE
10 PRESCRIPTION MEDICATIONS AND DEVICES IN THE FOURTH DEGREE WHEN HE OR SHE
11 KNOWINGLY AND UNLAWFULLY POSSESSES ONE OR MORE NON-CONTROLLED SUBSTANCE
12 PRESCRIPTION MEDICATIONS AND DEVICES WHICH WERE NOT LAWFULLY PRESCRIBED
13 TO HIM OR HER; AND

14 1. THE AGGREGATE VALUE OF SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION
15 MEDICATIONS AND DEVICES EXCEEDS FIVE HUNDRED DOLLARS; OR

16 2. HE OR SHE POSSESSES FIFTY OR MORE PILLS, TABLETS OR CAPSULES OF
17 SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES; OR

18 3. HE OR SHE POSSESSES A NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICA-
19 TION OR DEVICE WITH AN INTENT TO SELL IT; OR

20 4. HE OR SHE COMMITS THE CRIME OF UNLAWFUL POSSESSION OF NON-CONT-
21 ROLLED PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIFTH DEGREE, AND HAS
22 PREVIOUSLY BEEN CONVICTED OF THE CRIME OF UNLAWFUL POSSESSION OF
23 NON-CONTROLLED PRESCRIPTION MEDICATIONS AND DEVICES.

24 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICA-
25 TIONS AND DEVICES IN THE FOURTH DEGREE IS A CLASS E FELONY.

26 S 219.20 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION
27 MEDICATIONS AND DEVICES IN THE THIRD DEGREE.

28 A PERSON IS GUILTY OF UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE
29 PRESCRIPTION MEDICATIONS AND DEVICES IN THE THIRD DEGREE WHEN HE OR SHE
30 KNOWINGLY AND UNLAWFULLY POSSESSES ONE OR MORE NON-CONTROLLED SUBSTANCE
31 PRESCRIPTION MEDICATIONS AND DEVICES WHICH WERE NOT LAWFULLY PRESCRIBED
32 TO HIM OR HER; AND

33 1. THE AGGREGATE VALUE OF SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION
34 MEDICATIONS AND DEVICES EXCEEDS FIFTEEN HUNDRED DOLLARS; OR

35 2. HE OR SHE POSSESSES ONE HUNDRED FIFTY OR MORE PILLS, TABLETS OR
36 CAPSULES OF SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND
37 DEVICES.

38 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICA-
39 TIONS AND DEVICES IN THE THIRD DEGREE IS A CLASS D FELONY.

40 S 219.25 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION
41 MEDICATIONS AND DEVICES IN THE SECOND DEGREE.

42 A PERSON IS GUILTY OF UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE
43 PRESCRIPTION MEDICATIONS AND DEVICES IN THE SECOND DEGREE WHEN HE OR SHE
44 KNOWINGLY AND UNLAWFULLY POSSESSES ONE OR MORE NON-CONTROLLED SUBSTANCE
45 PRESCRIPTION MEDICATIONS AND DEVICES WHICH WERE NOT LAWFULLY PRESCRIBED
46 TO HIM OR HER; AND

47 1. THE AGGREGATE VALUE OF SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION
48 MEDICATIONS AND DEVICES EXCEEDS TEN THOUSAND DOLLARS; OR

49 2. HE OR SHE POSSESSES ONE THOUSAND OR MORE PILLS, TABLETS OR CAPSULES
50 OF SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES.

51 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICA-
52 TIONS AND DEVICES IN THE SECOND DEGREE IS A CLASS C FELONY.

53 S 219.30 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION
54 MEDICATIONS AND DEVICES IN THE FIRST DEGREE.

55 A PERSON IS GUILTY OF UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE
56 PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIRST DEGREE WHEN HE OR SHE

1 KNOWINGLY AND UNLAWFULLY POSSESSES ONE OR MORE NON-CONTROLLED SUBSTANCE
2 PRESCRIPTION MEDICATIONS AND DEVICES WHICH WERE NOT LAWFULLY PRESCRIBED
3 TO HIM OR HER; AND
4 1. THE AGGREGATE VALUE OF SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION
5 MEDICATIONS AND DEVICES EXCEEDS ONE HUNDRED THOUSAND DOLLARS; OR
6 2. HE OR SHE POSSESSES TEN THOUSAND OR MORE PILLS, TABLETS OR CAPSULES
7 OF SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES.
8 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICA-
9 TIONS AND DEVICES IN THE FIRST DEGREE IS A CLASS B FELONY.
10 S 10. This act shall take effect on the ninetieth day after it shall
11 have become a law.