

# STATE OF NEW YORK

5126

2021-2022 Regular Sessions

## IN ASSEMBLY

February 11, 2021

Introduced by M. of A. MONTESANO, BLANKENBUSH, GOODELL, FRIEND --  
Multi-Sponsored by -- M. of A. GUNTHER -- read once and referred to  
the Committee on Codes

AN ACT to amend the penal law, in relation to prohibiting the use of  
fraud or deceit to obtain a controlled substance; and to repeal  
section 3397 of the public health law relating thereto

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. Section 3397 of the public health law is REPEALED.  
2 § 2. The penal law is amended by adding a new section 220.80 to read  
3 as follows:  
4 § 220.80 Use of fraud or deceit to obtain a controlled substance.  
5 1. A person is guilty of use of fraud or deceit to obtain a controlled  
6 substance when he or she:  
7 (a) obtains or attempts to obtain a controlled substance, a  
8 prescription for a controlled substance or an official New York state  
9 prescription form:  
10 (i) by fraud, deceit, misrepresentation or subterfuge; or  
11 (ii) by the concealment of a material fact; or  
12 (iii) by the use of a false name or the giving of a false address;  
13 (b) wilfully makes a false statement in any prescription, order,  
14 application, report or record required by article thirty-three of the  
15 public health law;  
16 (c) falsely assumes the title of, or represents himself or herself to  
17 be a licensed manufacturer, distributor, pharmacy, pharmacist, practi-  
18 tioner, researcher, approved institutional dispenser, or other author-  
19 ized person, for the purpose of obtaining a controlled substance;  
20 (d) makes or utters any false or forged prescription or false or  
21 forged written order;  
22 (e) affixes any false or forged label to a package or receptacle  
23 containing controlled substances; or

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

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1     (f) imprints on or affixes to any controlled substance a false or  
2     forged code number or symbol.

3     2. Possession of a false or forged prescription for a controlled  
4     substance by any person other than a pharmacist in the lawful pursuance  
5     of his or her profession shall be presumptive evidence of his or her  
6     intent to use the same for the purpose of illegally obtaining a  
7     controlled substance.

8     3. Possession of a blank official New York state prescription form by  
9     any person to whom it was not lawfully issued shall be presumptive  
10    evidence of such person's intent to use same for the purpose of illegal-  
11    ly obtaining a controlled substance.

12    4. Any person who, in the course of treatment, is supplied with a  
13    controlled substance or a prescription therefor by one practitioner and  
14    who, without disclosing the fact, is supplied during such treatment with  
15    a controlled substance or a prescription therefor by another practition-  
16    er shall be guilty of use of fraud or deceit to obtain a controlled  
17    substance.

18    Use of fraud or deceit to obtain a controlled substance is a class A  
19    misdemeanor.

20    § 3. This act shall take effect on the first of November next succeed-  
21    ing the date on which it shall have become a law.