S T A T E O F N E W Y O R K

1335

2009-2010 Regular Sessions

I N S E N A T E

January 28, 2009

Introduced by Sen. SKELOS -- 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 establishing the class E felony of unlawful procurement of clients, patients or customers

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

Section 1. Section 176.00 of the penal law is amended by adding three new subdivisions 6, 7 and 8 to read as follows:

6. "PROVIDER" MEANS AN ATTORNEY, A HEALTH CARE PROFESSIONAL, AN OWNER OR OPERATOR OF A HEALTH CARE PRACTICE OR FACILITY, ANY PERSON WHO CREATES THE IMPRESSION THAT HE OR SHE, OR HIS OR HER PRACTICE CAN PROVIDE LEGAL OR HEALTH CARE SERVICES, OR ANY PERSON EMPLOYED OR ACTING ON BEHALF OF ANY SUCH PERSON.

7. "PUBLIC MEDIA" MEANS TELEPHONE DIRECTORIES, PROFESSIONAL DIRECTORIES, NEWSPAPERS AND OTHER PERIODICALS, RADIO AND TELEVISION, BILLBOARDS, AND MAILED OR ELECTRONICALLY TRANSMITTED WRITTEN COMMUNICATIONS THAT DO NOT INVOLVE IN-PERSON CONTACT WITH A SPECIFIC PROSPECTIVE CLIENT, PATIENT, OR CUSTOMER.

8. "RUNNER" MEANS A PERSON WHO, FOR A PECUNIARY BENEFIT, PROCURES OR ATTEMPTS TO PROCURE A CLIENT, PATIENT OR CUSTOMER AT THE DIRECTION OF, REQUEST OF OR IN COOPERATION WITH A PROVIDER WHEN SUCH PERSON KNOWS OR HAS REASON TO KNOW THAT THE PURPOSE OF SUCH PROVIDER IS TO SEEK TO FALSELY OR FRAUDULENTLY: OBTAIN BENEFITS UNDER A CONTRACT OF INSURANCE; OR ASSERT A CLAIM AGAINST AN INSURED OR AN INSURANCE CARRIER FOR PROVIDING SERVICES TO THE CLIENT, PATIENT OR CUSTOMER. SUCH TERM SHALL NOT INCLUDE A PERSON WHO PROCURES OR ATTEMPTS TO PROCURE CLIENTS, PATIENTS OR CUSTOMERS FOR A PROVIDER THROUGH PUBLIC MEDIA OR A PERSON WHO REFERS CLIENTS, PATIENTS OR CUSTOMERS AS AUTHORIZED BY LAW. NOTHING IN THIS ARTICLE SHALL BE DEEMED TO PROHIBIT AN AGENT, BROKER OR EMPLOYEE OF A HEALTH MAINTENANCE ORGANIZATION FROM SEEKING TO SELL HEALTH MAINTENANCE

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

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ORGANIZATION COVERAGE OR HEALTH INSURANCE COVERAGE TO AN INDIVIDUAL OR GROUP.

S 2. The penal law is amended by adding a new section 176.40 to read as follows:

S 176.40 UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR CUSTOMERS.

A PERSON IS GUILTY OF UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR CUSTOMERS WHEN, HE OR SHE KNOWINGLY:

1. ACTS AS A RUNNER; OR

2. USES, SOLICITS, DIRECTS, HIRES OR EMPLOYS ANOTHER PERSON TO ACT AS A RUNNER.

UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR CUSTOMERS IS A CLASS E FELONY.

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.