

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:

1 Section 1. Section 176.00 of the penal law is amended by adding three
2 new subdivisions 6, 7 and 8 to read as follows:
3 6. "PROVIDER" MEANS AN ATTORNEY, A HEALTH CARE PROFESSIONAL, AN OWNER
4 OR OPERATOR OF A HEALTH CARE PRACTICE OR FACILITY, ANY PERSON WHO
5 CREATES THE IMPRESSION THAT HE OR SHE, OR HIS OR HER PRACTICE CAN
6 PROVIDE LEGAL OR HEALTH CARE SERVICES, OR ANY PERSON EMPLOYED OR ACTING
7 ON BEHALF OF ANY SUCH PERSON.
8 7. "PUBLIC MEDIA" MEANS TELEPHONE DIRECTORIES, PROFESSIONAL DIRECTO-
9 RIES, NEWSPAPERS AND OTHER PERIODICALS, RADIO AND TELEVISION, BILL-
10 BOARDS, AND MAILED OR ELECTRONICALLY TRANSMITTED WRITTEN COMMUNICATIONS
11 THAT DO NOT INVOLVE IN-PERSON CONTACT WITH A SPECIFIC PROSPECTIVE
12 CLIENT, PATIENT, OR CUSTOMER.
13 8. "RUNNER" MEANS A PERSON WHO, FOR A PECUNIARY BENEFIT, PROCURES OR
14 ATTEMPTS TO PROCURE A CLIENT, PATIENT OR CUSTOMER AT THE DIRECTION OF,
15 REQUEST OF OR IN COOPERATION WITH A PROVIDER WHEN SUCH PERSON KNOWS OR
16 HAS REASON TO KNOW THAT THE PURPOSE OF SUCH PROVIDER IS TO SEEK TO
17 FALSELY OR FRAUDULENTLY: OBTAIN BENEFITS UNDER A CONTRACT OF INSURANCE;
18 OR ASSERT A CLAIM AGAINST AN INSURED OR AN INSURANCE CARRIER FOR PROVID-
19 ING SERVICES TO THE CLIENT, PATIENT OR CUSTOMER. SUCH TERM SHALL NOT
20 INCLUDE A PERSON WHO PROCURES OR ATTEMPTS TO PROCURE CLIENTS, PATIENTS
21 OR CUSTOMERS FOR A PROVIDER THROUGH PUBLIC MEDIA OR A PERSON WHO REFERS
22 CLIENTS, PATIENTS OR CUSTOMERS AS AUTHORIZED BY LAW. NOTHING IN THIS
23 ARTICLE SHALL BE DEEMED TO PROHIBIT AN AGENT, BROKER OR EMPLOYEE OF A
24 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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1 ORGANIZATION COVERAGE OR HEALTH INSURANCE COVERAGE TO AN INDIVIDUAL OR
2 GROUP.
3 S 2. The penal law is amended by adding a new section 176.40 to read
4 as follows:
5 S 176.40 UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR CUSTOMERS.
6 A PERSON IS GUILTY OF UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR
7 CUSTOMERS WHEN, HE OR SHE KNOWINGLY:
8 1. ACTS AS A RUNNER; OR
9 2. USES, SOLICITS, DIRECTS, HIRES OR EMPLOYS ANOTHER PERSON TO ACT AS
10 A RUNNER.
11 UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR CUSTOMERS IS A CLASS E
12 FELONY.
13 S 3. This act shall take effect on the first of November next succeed-
14 ing the date on which it shall have become a law.