

1863

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. MONTESANO -- 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 Section 3397 of the public health law is REPEALED.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 S 2. The penal law is amended by adding a new section 220.80 to read
3 as follows:
4 S 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.

LBD05693-01-3

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 S 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.