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

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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 3397 of the public health law is REPEALED.

S 2. The penal law is amended by adding a new section 220.80 to read as follows:

S 220.80 USE OF FRAUD OR DECEIT TO OBTAIN A CONTROLLED SUBSTANCE.

1. A PERSON IS GUILTY OF USE OF FRAUD OR DECEIT TO OBTAIN A CONTROLLED SUBSTANCE WHEN HE OR SHE:

(A) OBTAINS OR ATTEMPTS TO OBTAIN A CONTROLLED SUBSTANCE, A PRESCRIPTION FOR A CONTROLLED SUBSTANCE OR AN OFFICIAL NEW YORK STATE PRESCRIPTION FORM:

(I) BY FRAUD, DECEIT, MISREPRESENTATION OR SUBTERFUGE; OR

(II) BY THE CONCEALMENT OF A MATERIAL FACT; OR

(III) BY THE USE OF A FALSE NAME OR THE GIVING OF A FALSE ADDRESS;

(B) WILFULLY MAKES A FALSE STATEMENT IN ANY PRESCRIPTION, ORDER, APPLICATION, REPORT OR RECORD REQUIRED BY ARTICLE THIRTY-THREE OF THE PUBLIC HEALTH LAW;

(C) FALSELY ASSUMES THE TITLE OF, OR REPRESENTS HIMSELF OR HERSELF TO BE A LICENSED MANUFACTURER, DISTRIBUTOR, PHARMACY, PHARMACIST, PRACTITIONER, RESEARCHER, APPROVED INSTITUTIONAL DISPENSER, OR OTHER AUTHORIZED PERSON, FOR THE PURPOSE OF OBTAINING A CONTROLLED SUBSTANCE;

(D) MAKES OR UTTERS ANY FALSE OR FORGED PRESCRIPTION OR FALSE OR FORGED WRITTEN ORDER;

(E) AFFIXES ANY FALSE OR FORGED LABEL TO A PACKAGE OR RECEPTACLE CONTAINING CONTROLLED SUBSTANCES; OR

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

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(F) IMPRINTS ON OR AFFIXES TO ANY CONTROLLED SUBSTANCE A FALSE OR FORGED CODE NUMBER OR SYMBOL.

2. POSSESSION OF A FALSE OR FORGED PRESCRIPTION FOR A CONTROLLED SUBSTANCE BY ANY PERSON OTHER THAN A PHARMACIST IN THE LAWFUL PURSUANCE OF HIS OR HER PROFESSION SHALL BE PRESUMPTIVE EVIDENCE OF HIS OR HER INTENT TO USE THE SAME FOR THE PURPOSE OF ILLEGALLY OBTAINING A CONTROLLED SUBSTANCE.

3. POSSESSION OF A BLANK OFFICIAL NEW YORK STATE PRESCRIPTION FORM BY ANY PERSON TO WHOM IT WAS NOT LAWFULLY ISSUED SHALL BE PRESUMPTIVE EVIDENCE OF SUCH PERSON'S INTENT TO USE SAME FOR THE PURPOSE OF ILLEGALLY OBTAINING A CONTROLLED SUBSTANCE.

4. ANY PERSON WHO, IN THE COURSE OF TREATMENT, IS SUPPLIED WITH A CONTROLLED SUBSTANCE OR A PRESCRIPTION THEREFOR BY ONE PRACTITIONER AND WHO, WITHOUT DISCLOSING THE FACT, IS SUPPLIED DURING SUCH TREATMENT WITH A CONTROLLED SUBSTANCE OR A PRESCRIPTION THEREFOR BY ANOTHER PRACTITIONER SHALL BE GUILTY OF USE OF FRAUD OR DECEIT TO OBTAIN A CONTROLLED SUBSTANCE.

USE OF FRAUD OR DECEIT TO OBTAIN A CONTROLLED SUBSTANCE IS A CLASS A MISDEMEANOR.

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