

4064

2013-2014 Regular Sessions

I N S E N A T E

March 6, 2013

Introduced by Sen. MARCELLINO -- 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 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 Section 3397 of the public health law is REPEALED.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.