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

S. 7907 A. 10155

S E N A T E - A S S E M B L Y

June 17, 2014

IN SENATE -- Introduced by Sen. MARCELLINO -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by COMMITTEE ON RULES -- (at request of M. of A. Peoples-Stokes) -- (at request of the Governor) -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to creating the offense of prescription medication fraud and deceit

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

Section 1. The penal law is amended by adding a new section 178.26 to read as follows:

S 178.26 FRAUD AND DECEIT RELATED TO CONTROLLED SUBSTANCES.

1. NO PERSON SHALL WILLFULLY:

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

(C) FALSELY ASSUME THE TITLE OF, OR REPRESENT HIMSELF OR HERSELF TO BE A LICENSED MANUFACTURER, DISTRIBUTOR, PHARMACY, PHARMACIST, PRACTITIONER, RESEARCHER, APPROVED INSTITUTIONAL DISPENSER, OWNER OR EMPLOYEE OF A REGISTERED OUTSOURCING FACILITY OR OTHER AUTHORIZED PERSON, FOR THE PURPOSE OF OBTAINING A CONTROLLED SUBSTANCE AS THESE TERMS ARE DEFINED IN ARTICLE THIRTY-THREE OF THE PUBLIC HEALTH LAW;

(D) MAKE OR UTTER ANY FALSE OR FORGED PRESCRIPTION OR FALSE OR FORGED WRITTEN ORDER;

(E) AFFIX 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) IMPRINT ON OR AFFIX 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 WITH THE INTENT TO DECEIVE, INTENTIONALLY WITHHOLDS OR INTENTIONALLY FAILS TO DISCLOSE THE FACT, IS SUPPLIED DURING SUCH TREATMENT WITH A CONTROLLED SUBSTANCE OR A PRESCRIPTION THEREFOR BY ANOTHER PRACTITIONER SHALL BE GUILTY OF A VIOLATION OF THIS ARTICLE.

5. THE PROVISIONS OF SUBDIVISION ONE OF SECTION THIRTY-THREE HUNDRED NINETY-SIX OF THE PUBLIC HEALTH LAW SHALL APPLY TO THIS SECTION.

FRAUD AND DECEIT RELATED TO CONTROLLED SUBSTANCES IS A CLASS A MISDEMEANOR.

S 2. This act shall take effect immediately.