

7051

I N S E N A T E

March 18, 2016

Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law and the criminal procedure law, in relation to criminalizing acting as a runner or soliciting or employing a runner to procure patients or clients

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 four  
2 new subdivisions 6, 7, 8 and 9 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, ANY PERSON EMPLOYED OR ACTING ON  
7 BEHALF OF ANY SUCH PERSON, OR ANY PERSON PROVIDING MANAGEMENT OR  
8 CONSULTING SERVICES TO ANY SUCH PERSON.

9 7. "PUBLIC MEDIA" MEANS TELEPHONE DIRECTORIES, PROFESSIONAL DIRECTO-  
10 RIES, NEWSPAPERS AND OTHER PERIODICALS, RADIO AND TELEVISION, BILL-  
11 BOARDS, AND MAILED OR ELECTRONICALLY TRANSMITTED WRITTEN COMMUNICATIONS  
12 THAT DO NOT INVOLVE DIRECT CONTACT WITH A SPECIFIC PROSPECTIVE CLIENT,  
13 PATIENT, OR CUSTOMER.

14 8. "RUNNER" MEANS A PERSON WHO, FOR A PECUNIARY BENEFIT, PROCURES OR  
15 ATTEMPTS TO PROCURE A CLIENT, PATIENT OR CUSTOMER AT THE DIRECTION OF,  
16 REQUEST OF OR IN COOPERATION WITH A PROVIDER WHOSE PURPOSE IS TO SEEK TO  
17 OBTAIN BENEFITS UNDER A CONTRACT OF INSURANCE OR ASSERT A CLAIM AGAINST  
18 AN INSURED OR AN INSURANCE CARRIER FOR PROVIDING SERVICES TO THE CLIENT,  
19 PATIENT OR CUSTOMER, OR TO OBTAIN BENEFITS UNDER OR ASSERT A CLAIM  
20 AGAINST A STATE OR FEDERAL HEALTH CARE BENEFITS PROGRAM OR PRESCRIPTION  
21 DRUG ASSISTANCE PROGRAM. "RUNNER" SHALL NOT INCLUDE (A) A PERSON WHO  
22 PROCURES OR ATTEMPTS TO PROCURE CLIENTS, PATIENTS OR CUSTOMERS FOR A  
23 PROVIDER THROUGH PUBLIC MEDIA; (B) A PERSON WHO REFERS CLIENTS, PATIENTS  
24 OR CUSTOMERS AS OTHERWISE AUTHORIZED BY LAW; OR (C) A PERSON WHO, AS AN  
25 AGENT, BROKER OR EMPLOYEE OF A HEALTH MAINTENANCE ORGANIZATION AS  
26 DEFINED IN SECTION FORTY-FOUR HUNDRED ONE OF THE PUBLIC HEALTH LAW,

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

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1 SEEKS TO SELL HEALTH MAINTENANCE ORGANIZATION COVERAGE OR HEALTH INSUR-  
2 ANCE COVERAGE TO AN INDIVIDUAL OR GROUP.

3 9. "PECUNIARY BENEFIT" MEANS GOODS, MONEY, PROPERTY, SERVICES OR  
4 ANYTHING OF VALUE, OR AN AGREEMENT TO CONFER OR RECEIVE ANY SUCH GOODS,  
5 MONEY, PROPERTY, SERVICES, OR THING OF VALUE.

6 S 2. The penal law is amended by adding three new sections 176.75,  
7 176.80 and 176.85 to read as follows:

8 S 176.75 UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR CUSTOMERS IN THE  
9 THIRD DEGREE.

10 A PERSON IS GUILTY OF UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR  
11 CUSTOMERS IN THE THIRD DEGREE WHEN HE OR SHE KNOWINGLY:

12 1. ACTS AS A RUNNER ON ONE OR MORE OCCASIONS; OR

13 2. USES, SOLICITS, DIRECTS, HIRES OR EMPLOYS ANOTHER PERSON TO ACT AS  
14 A RUNNER ON ONE OR MORE OCCASIONS.

15 UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR CUSTOMERS IN THE THIRD  
16 DEGREE IS A CLASS A MISDEMEANOR.

17 S 176.80 UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR CUSTOMERS IN THE  
18 SECOND DEGREE.

19 A PERSON IS GUILTY OF UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR  
20 CUSTOMERS IN THE SECOND DEGREE WHEN HE OR SHE KNOWINGLY:

21 1. ACTS AS A RUNNER ON ONE OR MORE OCCASIONS FOR A PECUNIARY BENEFIT  
22 THAT IN THE AGGREGATE EXCEEDS TWO THOUSAND FIVE HUNDRED DOLLARS IN VALUE  
23 OR ACTS AS A RUNNER ON FIVE OR MORE OCCASIONS; OR

24 2. USES, SOLICITS, DIRECTS, HIRES OR EMPLOYS ONE OR MORE PERSONS TO  
25 ACT AS A RUNNER ON ONE OR MORE OCCASIONS FOR A PECUNIARY BENEFIT THAT IN  
26 THE AGGREGATE EXCEEDS TWO THOUSAND FIVE HUNDRED DOLLARS IN VALUE OR  
27 USES, SOLICITS, DIRECTS, HIRES OR EMPLOYS ONE OR MORE PERSONS TO ACT AS  
28 A RUNNER ON FIVE OR MORE OCCASIONS.

29 UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR CUSTOMERS IN THE SECOND  
30 DEGREE IS A CLASS E FELONY.

31 S 176.85 UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR CUSTOMERS IN THE  
32 FIRST DEGREE.

33 A PERSON IS GUILTY OF UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR  
34 CUSTOMERS IN THE FIRST DEGREE WHEN HE OR SHE KNOWINGLY:

35 1. ACTS AS A RUNNER ON ONE OR MORE OCCASIONS FOR A PECUNIARY BENEFIT  
36 THAT IN THE AGGREGATE EXCEEDS FIVE THOUSAND DOLLARS IN VALUE OR ACTS AS  
37 A RUNNER ON TEN OR MORE OCCASIONS; OR

38 2. USES, SOLICITS, DIRECTS, HIRES OR EMPLOYS ONE OR MORE PERSONS TO  
39 ACT AS A RUNNER ON ONE OR MORE OCCASIONS FOR A PECUNIARY BENEFIT THAT IN  
40 THE AGGREGATE EXCEEDS FIVE THOUSAND DOLLARS OR USES, SOLICITS, DIRECTS,  
41 HIRES OR EMPLOYS ONE OR MORE PERSONS TO ACT AS A RUNNER ON TEN OR MORE  
42 OCCASIONS.

43 UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS OR CUSTOMERS IN THE FIRST  
44 DEGREE IS A CLASS D FELONY.

45 S 3. Paragraph (a) of subdivision 1 of section 460.10 of the penal  
46 law, as amended by chapter 368 of the laws of 2015, is amended to read  
47 as follows:

48 (a) Any of the felonies set forth in this chapter: sections 120.05,  
49 120.10 and 120.11 relating to assault; sections 121.12 and 121.13 relat-  
50 ing to strangulation; sections 125.10 to 125.27 relating to homicide;  
51 sections 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and  
52 135.25 relating to kidnapping; sections 135.35 and 135.37 relating to  
53 labor trafficking; section 135.65 relating to coercion; sections 140.20,  
54 140.25 and 140.30 relating to burglary; sections 145.05, 145.10 and  
55 145.12 relating to criminal mischief; article one hundred fifty relating  
56 to arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand

1 larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to health  
2 care fraud; article one hundred sixty relating to robbery; sections  
3 165.45, 165.50, 165.52 and 165.54 relating to criminal possession of  
4 stolen property; sections 165.72 and 165.73 relating to trademark coun-  
5 terfeiting; sections 170.10, 170.15, 170.25, 170.30, 170.40, 170.65 and  
6 170.70 relating to forgery; sections 175.10, 175.25, 175.35, 175.40 and  
7 210.40 relating to false statements; sections 176.15, 176.20, 176.25 and  
8 176.30 relating to insurance fraud; SECTIONS 176.80 AND 176.85 RELATING  
9 TO UNLAWFUL PROCUREMENT OF CLIENTS, PATIENTS AND CUSTOMERS; sections  
10 178.20 and 178.25 relating to criminal diversion of prescription medica-  
11 tions and prescriptions; sections 180.03, 180.08, 180.15, 180.25,  
12 180.40, 180.45, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.20,  
13 200.22, 200.25, 200.27, 200.56, 215.00, 215.05 and 215.19; sections  
14 187.10, 187.15, 187.20 and 187.25 relating to residential mortgage  
15 fraud, sections 190.40 and 190.42 relating to criminal usury; section  
16 190.65 relating to schemes to defraud; any felony defined in article  
17 four hundred ninety-six; sections 205.60 and 205.65 relating to hinder-  
18 ing prosecution; sections 210.10, 210.15, and 215.51 relating to perjury  
19 and contempt; section 215.40 relating to tampering with physical  
20 evidence; sections 220.06, 220.09, 220.16, 220.18, 220.21, 220.31,  
21 220.34, 220.39, 220.41, 220.43, 220.46, 220.55, 220.60, 220.65 and  
22 220.77 relating to controlled substances; sections 225.10 and 225.20  
23 relating to gambling; sections 230.25, 230.30, and 230.32 relating to  
24 promoting prostitution; section 230.34 relating to sex trafficking;  
25 sections 235.06, 235.07, 235.21 and 235.22 relating to obscenity;  
26 sections 263.10 and 263.15 relating to promoting a sexual performance by  
27 a child; sections 265.02, 265.03, 265.04, 265.11, 265.12, 265.13 and the  
28 provisions of section 265.10 which constitute a felony relating to  
29 firearms and other dangerous weapons; sections 265.14 and 265.16 relat-  
30 ing to criminal sale of a firearm; section 275.10, 275.20, 275.30, or  
31 275.40 relating to unauthorized recordings; and sections 470.05, 470.10,  
32 470.15 and 470.20 relating to money laundering; or

33 S 4. Paragraph (b) of subdivision 8 of section 700.05 of the criminal  
34 procedure law, as amended by chapter 368 of the laws of 2015, is amended  
35 to read as follows:

36 (b) Any of the following felonies: assault in the second degree as  
37 defined in section 120.05 of the penal law, assault in the first degree  
38 as defined in section 120.10 of the penal law, reckless endangerment in  
39 the first degree as defined in section 120.25 of the penal law, promot-  
40 ing a suicide attempt as defined in section 120.30 of the penal law,  
41 strangulation in the second degree as defined in section 121.12 of the  
42 penal law, strangulation in the first degree as defined in section  
43 121.13 of the penal law, criminally negligent homicide as defined in  
44 section 125.10 of the penal law, manslaughter in the second degree as  
45 defined in section 125.15 of the penal law, manslaughter in the first  
46 degree as defined in section 125.20 of the penal law, murder in the  
47 second degree as defined in section 125.25 of the penal law, murder in  
48 the first degree as defined in section 125.27 of the penal law, abortion  
49 in the second degree as defined in section 125.40 of the penal law,  
50 abortion in the first degree as defined in section 125.45 of the penal  
51 law, rape in the third degree as defined in section 130.25 of the penal  
52 law, rape in the second degree as defined in section 130.30 of the penal  
53 law, rape in the first degree as defined in section 130.35 of the penal  
54 law, criminal sexual act in the third degree as defined in section  
55 130.40 of the penal law, criminal sexual act in the second degree as  
56 defined in section 130.45 of the penal law, criminal sexual act in the

1 first degree as defined in section 130.50 of the penal law, sexual abuse  
2 in the first degree as defined in section 130.65 of the penal law,  
3 unlawful imprisonment in the first degree as defined in section 135.10  
4 of the penal law, kidnapping in the second degree as defined in section  
5 135.20 of the penal law, kidnapping in the first degree as defined in  
6 section 135.25 of the penal law, labor trafficking as defined in section  
7 135.35 of the penal law, aggravated labor trafficking as defined in  
8 section 135.37 of the penal law, custodial interference in the first  
9 degree as defined in section 135.50 of the penal law, coercion in the  
10 first degree as defined in section 135.65 of the penal law, criminal  
11 trespass in the first degree as defined in section 140.17 of the penal  
12 law, burglary in the third degree as defined in section 140.20 of the  
13 penal law, burglary in the second degree as defined in section 140.25 of  
14 the penal law, burglary in the first degree as defined in section 140.30  
15 of the penal law, criminal mischief in the third degree as defined in  
16 section 145.05 of the penal law, criminal mischief in the second degree  
17 as defined in section 145.10 of the penal law, criminal mischief in the  
18 first degree as defined in section 145.12 of the penal law, criminal  
19 tampering in the first degree as defined in section 145.20 of the penal  
20 law, arson in the fourth degree as defined in section 150.05 of the  
21 penal law, arson in the third degree as defined in section 150.10 of the  
22 penal law, arson in the second degree as defined in section 150.15 of  
23 the penal law, arson in the first degree as defined in section 150.20 of  
24 the penal law, grand larceny in the fourth degree as defined in section  
25 155.30 of the penal law, grand larceny in the third degree as defined in  
26 section 155.35 of the penal law, grand larceny in the second degree as  
27 defined in section 155.40 of the penal law, grand larceny in the first  
28 degree as defined in section 155.42 of the penal law, health care fraud  
29 in the fourth degree as defined in section 177.10 of the penal law,  
30 health care fraud in the third degree as defined in section 177.15 of  
31 the penal law, health care fraud in the second degree as defined in  
32 section 177.20 of the penal law, health care fraud in the first degree  
33 as defined in section 177.25 of the penal law, robbery in the third  
34 degree as defined in section 160.05 of the penal law, robbery in the  
35 second degree as defined in section 160.10 of the penal law, robbery in  
36 the first degree as defined in section 160.15 of the penal law, unlawful  
37 use of secret scientific material as defined in section 165.07 of the  
38 penal law, criminal possession of stolen property in the fourth degree  
39 as defined in section 165.45 of the penal law, criminal possession of  
40 stolen property in the third degree as defined in section 165.50 of the  
41 penal law, criminal possession of stolen property in the second degree  
42 as defined by section 165.52 of the penal law, criminal possession of  
43 stolen property in the first degree as defined by section 165.54 of the  
44 penal law, trademark counterfeiting in the second degree as defined in  
45 section 165.72 of the penal law, trademark counterfeiting in the first  
46 degree as defined in section 165.73 of the penal law, forgery in the  
47 second degree as defined in section 170.10 of the penal law, forgery in  
48 the first degree as defined in section 170.15 of the penal law, criminal  
49 possession of a forged instrument in the second degree as defined in  
50 section 170.25 of the penal law, criminal possession of a forged instru-  
51 ment in the first degree as defined in section 170.30 of the penal law,  
52 criminal possession of forgery devices as defined in section 170.40 of  
53 the penal law, falsifying business records in the first degree as  
54 defined in section 175.10 of the penal law, tampering with public  
55 records in the first degree as defined in section 175.25 of the penal  
56 law, offering a false instrument for filing in the first degree as

1 defined in section 175.35 of the penal law, issuing a false certificate  
2 as defined in section 175.40 of the penal law, UNLAWFUL PROCUREMENT OF  
3 CLIENTS, PATIENTS OR CUSTOMERS IN THE SECOND DEGREE AS DEFINED IN  
4 SECTION 176.80 OF THE PENAL LAW, UNLAWFUL PROCUREMENT OF CLIENTS,  
5 PATIENTS OR CUSTOMERS IN THE FIRST DEGREE AS DEFINED IN SECTION 176.85  
6 OF THE PENAL LAW, criminal diversion of prescription medications and  
7 prescriptions in the second degree as defined in section 178.20 of the  
8 penal law, criminal diversion of prescription medications and  
9 prescriptions in the first degree as defined in section 178.25 of the  
10 penal law, residential mortgage fraud in the fourth degree as defined in  
11 section 187.10 of the penal law, residential mortgage fraud in the third  
12 degree as defined in section 187.15 of the penal law, residential mort-  
13 gage fraud in the second degree as defined in section 187.20 of the  
14 penal law, residential mortgage fraud in the first degree as defined in  
15 section 187.25 of the penal law, escape in the second degree as defined  
16 in section 205.10 of the penal law, escape in the first degree as  
17 defined in section 205.15 of the penal law, absconding from temporary  
18 release in the first degree as defined in section 205.17 of the penal  
19 law, promoting prison contraband in the first degree as defined in  
20 section 205.25 of the penal law, hindering prosecution in the second  
21 degree as defined in section 205.60 of the penal law, hindering prose-  
22 cution in the first degree as defined in section 205.65 of the penal  
23 law, sex trafficking as defined in section 230.34 of the penal law,  
24 criminal possession of a weapon in the third degree as defined in subdi-  
25 visions two, three and five of section 265.02 of the penal law, criminal  
26 possession of a weapon in the second degree as defined in section 265.03  
27 of the penal law, criminal possession of a weapon in the first degree as  
28 defined in section 265.04 of the penal law, manufacture, transport,  
29 disposition and defacement of weapons and dangerous instruments and  
30 appliances defined as felonies in subdivisions one, two, and three of  
31 section 265.10 of the penal law, sections 265.11, 265.12 and 265.13 of  
32 the penal law, or prohibited use of weapons as defined in subdivision  
33 two of section 265.35 of the penal law, relating to firearms and other  
34 dangerous weapons, or failure to disclose the origin of a recording in  
35 the first degree as defined in section 275.40 of the penal law;

36 S 5. This act shall take effect on the first of November next succeed-  
37 ing the date upon which it shall have become a law.