

# STATE OF NEW YORK

7733

2019-2020 Regular Sessions

## IN ASSEMBLY

May 17, 2019

Introduced by M. of A. SOLAGES -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to establishing the crime of sexual abuse against a patient or client by a health care provider in the first and second degree

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The penal law is amended by adding a new section 130.83 to  
2 read as follows:

3 § 130.83 Sexual abuse against a patient or client by a health care  
4 provider in the second degree.

5 1. A person is guilty of sexual abuse against a patient or client by  
6 a health care provider in the second degree when:

7 (a) he or she is, or holds himself or herself out to be, a health care  
8 provider or mental health care provider; and

9 (b) engages in sexual contact with a patient or client during the  
10 course of diagnosis, counseling, or treatment; and

11 (c) consent to such sexual contact was procured by a false represen-  
12 tation that such contact was for a bona fide medical purpose.

13 2. Conduct performed for a valid medical purpose does not violate the  
14 provisions of this section.

15 Sexual abuse against a patient or client by a health care provider in  
16 the second degree is a class E felony.

17 § 2. The penal law is amended by adding a new section 130.84 to read  
18 as follows:

19 § 130.84 Sexual abuse against a patient or client by a health care  
20 provider in the first degree.

21 1. A person is guilty of sexual abuse against a patient or client by a  
22 health care provider in the first degree when:

23 (a) he or she is, or holds himself or herself out to be, a health care  
24 provider or mental health care provider; and

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

LBD11449-02-9

1     (b) knowingly induces a patient or client to engage in sexual inter-  
2     course, oral sexual conduct, or anal sexual conduct during the course of  
3     diagnosis, counseling, or treatment; and

4     (c) consent to such sexual intercourse, oral sexual conduct, or anal  
5     sexual conduct was procured by a false representation that such act was  
6     for a bona fide medical purpose.

7     2. Conduct performed for a valid medical purpose does not violate the  
8     provisions of this section.

9     Sexual abuse against a patient or client by a health care provider in  
10    the first degree is a class B felony.

11    § 3. This act shall take effect immediately.