

STATE OF NEW YORK

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2021-2022 Regular Sessions

IN ASSEMBLY

February 19, 2021

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.

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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.