

STATE OF NEW YORK

5126

2021-2022 Regular Sessions

IN ASSEMBLY

February 11, 2021

Introduced by M. of A. MONTESANO, BLANKENBUSH, GOODELL, FRIEND --
Multi-Sponsored by -- M. of A. GUNTHER -- read once and referred 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 Section 3397 of the public health law is REPEALED.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 § 2. The penal law is amended by adding a new section 220.80 to read
3 as follows:
4 § 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.

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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 § 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.