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:

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

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

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

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

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

(c) consent to such sexual contact was procured by a false representation that such contact was for a bona fide medical purpose.

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

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

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

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

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

(a) he or she is, or holds himself or herself out to be, a health care 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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(b) knowingly induces a patient or client to engage in sexual intercourse, oral sexual conduct, or anal sexual conduct during the course of diagnosis, counseling, or treatment; and

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

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

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

§ 3. This act shall take effect immediately.