

S. **PROGRAM BILL # 46**
Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

PENALA
(Creates the offense of prescription
medication fraud and deceit)

Pen L. medication fraud/deceit

AN ACT

to amend the penal law, in relation
to creating the offense of
prescription medication fraud and
deceit

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

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal

s15 Addabbo	s02 Flanagan	s28 Krueger	s55 O'Brien	s51 Seward
s11 Avella	s59 Gallivan	s24 Lanza	s58 O'Mara	s09 Skelos
s40 Ball	s12 Gianaris	s39 Larkin	s21 Parker	s14 Smith
s42 Bonacic	s41 Gipson	s37 Latimer	s13 Peralta	s26 Squadron
s04 Boyle	s22 Golden	s01 LaValle	s30 Perkins	s16 Stavisky
s44 Breslin	s47 Griffo	s52 Libous	s61 Ranzenhofer	s35 Stewart-
s38 Carlucci	s60 Grisanti	s45 Little	s48 Ritchie	Cousins
s50 DeFrancisco	s06 Hannon	s05 Marcellino	s33 Rivera	s46 Tkaczyk
s32 Diaz	s36 Hassell-	s43 Marchione	s56 Robach	s53 Valesky
s18 Dilan	Thompson	s07 Martins	s19 Sampson	s57 Young
s31 Espaillet	s27 Hoylman	s62 Maziarz	s10 Sanders	s03 Zeldin
s49 Farley	s63 Kennedy	s25 Montgomery	s23 Savino	s08
s17 Felder	s34 Klein	s54 Nozzolio	s29 Serrano	s20

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a049 Abbate	a147 DiPietro	a076 Kellner	a132 Palmesano	a099 Skoufiss
a092 Abinanti	a115 Duprey	a040 Kim	a002 Palumbo	a022 Solages
a084 Arroyo	a004 Englebright	a131 Kolb	a088 Paulin	a114 Stec
a035 Aubry	a109 Fahy	a105 Lalor	a141 Peoples-	a110 Steck
a120 Barclay	a071 Farrell	a013 Lavine	Stokes	a127 Stirpe
a106 Barrett	a126 Finch	a050 Lentol	a058 Perry	a011 Sweeney
a082 Benedetto	a009 Fitzpatrick	a125 Lifton	a086 Pichardo	a112 Tedisco
a117 Blankenbush	a124 Friend	a102 Lopez, P.	a089 Pratlow	a101 Tenney
a062 Borelli	a095 Galef	a123 Lupardo	a073 Quart	a001 Thiele
a026 Braunstein	a137 Gantt	a010 Lupinacci	a019 Ra	a061 Titone
a044 Brennan	a007 Garbarino	a121 Magee	a012 Raia	a031 Titus
a119 Brindisi	a148 Giglio	a129 Magnarelli	a006 Ramos	a146 Walter
a138 Bronson	a080 Gjonaj	a064 Malliotakis	a078 Rivera	a041 Weinstein
a046 Brook-Krasny	a066 Glick	a030 Markey	a128 Roberts	a020 Weisenberg
a093 Buchwald	a023 Goldfeder	a090 Mayer	a056 Robinson	a024 Weprip
a118 Butler	a150 Goodell	a108 McDonald	a068 Rodriguez	a070 Wright
a103 Cahill	a075 Gottfried	a014 McDonough	a072 Rosa	a096 Zebrowski
a043 Camara	a005 Graf	a017 McKeivitt	a067 Rosenthal	a054
a145 Ceretto	a100 Gunther	a107 McLaughlin	a025 Rozic	a055
a033 Clark	a139 Hawley	a038 Miller	a116 Russell	a059
a047 Colton	a083 Heastie	a052 Millman	a149 Ryan	a060
a032 Cook	a003 Hennessey	a015 Montesano	a009 Saladino	a077
a144 Corwin	a028 Hevesi	a136 Morelle	a111 Santabarbara	a079
a085 Crespo	a048 Hiking	a057 Mosley	a029 Scarborough	a098
a122 Crouch	a018 Hooper	a039 Moya	a016 Schimel	a113
a021 Curran	a042 Jacobs	a133 Nojay	a140 Schimminger	a134
a063 Cusick	a097 Jaffee	a037 Nolan	a087 Sepulveda	a143
a045 Cymbrowitz	a135 Johns	a130 Oaks	a065 Silver	
a053 Davila	a094 Katz	a069 O'Donnell	a027 Simanowitz	
a034 DenDekker	a074 Kavanagh	a051 Ortiz	a036 Simotas	
a081 Dinowitz	a142 Kearns	a091 Otis	a104 Skartados	

1) Single House Bill (introduced and printed separately in either or both
houses). Uni-Bill (introduced simultaneously in both houses and printed as one
bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed
copies of bill and 4 copies of memorandum in support (single house); or 4 signed
copies of bill and 8 copies of memorandum in support (uni-bill).

1 Section 1. The penal law is amended by adding a new section 178.26 to
2 read as follows:

3 § 178.26 Fraud and deceit related to controlled substances.

4 1. No person shall willfully:

5 (a) obtain or attempt to obtain a controlled substance, a prescription
6 for a controlled substance or an official New York state prescription
7 form,

8 (i) by fraud, deceit, misrepresentation or subterfuge; or

9 (ii) by the concealment of a material fact; or

10 (iii) by the use of a false name or the giving of a false address;

11 (b) make a false statement in any prescription, order, application,
12 report or record required by article thirty-three of the public health
13 law;

14 (c) falsely assume the title of, or represent himself or herself to be
15 a licensed manufacturer, distributor, pharmacy, pharmacist, practition-
16 er, researcher, approved institutional dispenser, owner or employee of a
17 registered outsourcing facility or other authorized person, for the
18 purpose of obtaining a controlled substance as these terms are defined
19 in article thirty-three of the public health law;

20 (d) make or utter any false or forged prescription or false or forged
21 written order;

22 (e) affix any false or forged label to a package or receptacle
23 containing controlled substances; or

24 (f) imprint on or affix to any controlled substance a false or forged
25 code number or symbol.

26 2. Possession of a false or forged prescription for a controlled
27 substance by any person other than a pharmacist in the lawful pursuance
28 of his or her profession shall be presumptive evidence of his or her

1 intent to use the same for the purpose of illegally obtaining a
2 controlled substance.

3 3. Possession of a blank official New York state prescription form by
4 any person to whom it was not lawfully issued shall be presumptive
5 evidence of such person's intent to use same for the purpose of illegal-
6 ly obtaining a controlled substance.

7 4. Any person who, in the course of treatment, is supplied with a
8 controlled substance or a prescription therefor by one practitioner and
9 who with the intent to deceive, intentionally withholds or intentionally
10 fails to disclose the fact, is supplied during such treatment with a
11 controlled substance or a prescription therefor by another practitioner
12 shall be guilty of a violation of this article.

13 5. The provisions of subdivision one of section thirty-three hundred
14 ninety-six of the public health law shall apply to this section.

15 Fraud and deceit related to controlled substances is a class A misde-
16 meanor.

17 § 2. This act shall take effect immediately.