

§1108. Acquiring drugs by deception

1. A person is guilty of acquiring drugs by deception if, as a result of deception, the person obtains or exercises control over a prescription for a scheduled drug or what the person knows or believes to be a scheduled drug, which is in fact a scheduled drug, and the drug is:

A. A schedule W drug. Violation of this paragraph is a Class C crime; [PL 2001, c. 667, Pt. A, §35 (RPR); PL 2001, c. 667, Pt. A, §36 (AFF).]

B. A schedule X drug. Violation of this paragraph is a Class C crime; [PL 2001, c. 667, Pt. A, §35 (RPR); PL 2001, c. 667, Pt. A, §36 (AFF).]

C. A schedule Y drug. Violation of this paragraph is a Class C crime; or [PL 2001, c. 667, Pt. A, §35 (RPR); PL 2001, c. 667, Pt. A, §36 (AFF).]

D. A schedule Z drug. Violation of this paragraph is a Class D crime. [PL 2001, c. 667, Pt. A, §35 (RPR); PL 2001, c. 667, Pt. A, §36 (AFF).]

[PL 2001, c. 667, Pt. A, §35 (RPR); PL 2001, c. 667, Pt. A, §36 (AFF).]

2. As used in this section, "deception" has the same meaning as in section 354, subsection 2 and includes:

A. Failure by a person, after having been asked by a prescribing health care provider or a person acting under the direction or supervision of a prescribing health care provider, to disclose the particulars of every narcotic drug or prescription for a narcotic drug issued to that person by a different health care provider within the preceding 30 days; or [PL 2001, c. 419, §19 (NEW).]

B. Furnishing a false name or address to a prescribing health care provider or a person acting under the direction or supervision of a prescribing health care provider. [PL 2001, c. 419, §19 (NEW).]
[PL 2001, c. 419, §19 (AMD).]

3. For purposes of this section, information communicated to a prescribing health care provider, or a person acting under the direction or supervision of a prescribing health care provider, in an effort to violate this section, including a violation by procuring the administration of a scheduled drug by deception, may not be deemed a privileged communication.

[PL 2007, c. 382, §1 (AMD).]

4.

[PL 2001, c. 383, §129 (RP); PL 2001, c. 383, §156 (AFF).]

5. For purposes of the causation required by subsection 1, engaging in an act of deception described in subsection 2, paragraph A or B gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303, that the act of deception in fact resulted in the acquisition of any drugs prescribed to that person by that prescribing health care provider or person acting under the direction or supervision of that prescribing health care provider.

[PL 2003, c. 143, §6 (AMD).]

6. A prescribing health care provider, or a person acting under the direction or supervision of a prescribing health care provider, who knows or has reasonable cause to believe that a person is committing or has committed deception may report that fact to a law enforcement officer. A person participating in good faith in reporting under this subsection, or in participating in a related proceeding, is immune from criminal or civil liability for the act of reporting or participating in the proceeding.

[PL 2007, c. 382, §2 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1979, c. 512, §33 (RPR). PL 1983, c. 350 (AMD). PL 2001, c. 383, §§128,129 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 419, §§19,20 (AMD). PL

2001, c. 667, §A35 (AMD). PL 2001, c. 667, §A36 (AFF). PL 2003, c. 143, §6 (AMD). PL 2007, c. 382, §§1, 2 (AMD).

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