**CRIMINAL IMPERSONATION FIRST DEGREE

(Of A Person Authorized to Issue Prescription)

Penal Law § 190.26 (3)

(Committed on or after Nov. 1, 1998)**

The (*specify)* count is Criminal Impersonation in the First Degree.

Under our law, a person is guilty of Criminal Impersonation in the First Degree when he or she knowingly1 pretends to be a duly licensed physician or other person authorized to issue a prescription for any drug or any instrument or device used in the taking or administering of drugs for which a prescription is required by law and communicates to a pharmacist an oral prescription which is required by law to be reduced to writing.2

Under our law, a prescription for (*specify)* is required and must be reduced to writing after having been orally communicated to a pharmacist.

The following term used in that definition has a special meaning:

A person KNOWINGLY pretends to be a duly licensed physician or other person authorized to issue a prescription when he or she is aware that he or she is pretending to be a duly licensed physician or other person authorized to issue a prescription.

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, each of the following two elements:

1 The word “knowingly” has been added to comport with Penal Law § 15.05(2).

2 At this point the statute continues: “pursuant to section 3332 of the public health law.” Public health law § 3332 is included in article 33 dealing with controlled substances. That portion is omitted and covered by the next paragraph.

1. That on or about (*date*), in the county of (*county*), the defendant (*defendant’s name*), knowingly pretended to be a duly licensed physician or other person authorized to issue a prescription for any drug or any instrument or device used in the taking or administering of drugs for which a prescription is required by law, and
2. That the defendant communicated to a pharmacist an oral prescription which was required by law to be reduced to writing.

If you find the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of this crime.

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