

**CRIMINAL IMPERSONATION FIRST DEGREE  
(E Felony)  
(Of A Person Authorized to Issue Prescription)  
PENAL LAW 190.26 (3)  
(Committed on or after Nov. 1, 1998)**

The \_\_\_\_\_ 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 knowingly<sup>1</sup> 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.<sup>2</sup>

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

The term, “knowingly,” used in this definition has its own special meaning in our law. I will now give you the meaning of that term:

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

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

<sup>2</sup> 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.

People are required to prove, from all the evidence in the case, beyond a reasonable doubt, each of the following two elements:

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.

Therefore, if you find that the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of the crime of Criminal Impersonation in the First Degree as charged in the \_\_\_\_\_ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of the crime of Criminal Impersonation in the First Degree as charged in the \_\_\_\_\_ count.