



NEW YORK STATE SENATOR

Stephen M. Saland

## Senators Advocate for Criminalizing Improper Transfer and Inappropriate Possession of Non-Controlled Substances

STEPHEN M. SALAND June 9, 2011

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Health Chair Senator Kemp Hannon, and Codes Chair Senator Stephen Saland joined with drug enforcement investigators and prosecutors today during a public hearing to discuss proposed legislation (S. 5260-A Hannon) which would criminalize the improper transfer and inappropriate possession of non-controlled substances and the subsequent effects on Medicaid expenditures and public health.

“Improper transfer and inappropriate possession of non-controlled substances continues to grow, and yet, existing state law does not adequately equip law enforcement to address the large-scale black market in non-controlled substances,” said Senator Hannon. “This legislation will provide law enforcement with the necessary guidelines and authority to crackdown on this behavior and keep our communities safe.”

It has been reported that there has been an expanding black market in non-controlled substances throughout New York. Non-controlled substance prescription medications are used to treat debilitating medical conditions such as AIDS/HIV, asthma, and diabetes. These medications are not only expensive, but can have significant side effects when they are not handled and dispensed appropriately.

This bill addresses the growing black market in prescription drugs by restructuring the existing crime of prescription medications and adding a new Penal Law article 179 entitled Fraudulent Prescription, Dispensing and Procurement of Non-controlled Substance Prescription Medications and Devices.

“The fraudulent sale or possession of prescription drugs is an ever increasing public health phenomenon that puts patients at risk by exposure to potentially unsafe drugs and takes advantage of taxpayers by fraudulent billings to Medicaid and other government programs,” said Senator Saland. “As chairman of the Senate Committee on Codes, I’m determined to provide law enforcement with the proper tools to investigate and prosecute these crimes. Senate Bill 5260 provides new charges and imposes new criminal sanctions on those who are taking advantage of patients and taxpayers for their own financial gain.”

Among the reports of diverted non-controlled substances, have been the misuse and improper transfer of Medicaid prescriptions. This has not only resulted in non-compliant patients, but also in some cases, has been redistributed through complicit pharmacists to unsuspecting patients, resulting in a significant defrauding of the Medicaid system and public health issue.

Bridget G. Brennan, Special Narcotics Prosecutor for the City of New York, said, "In New York City we have witnessed an explosion of illegal trafficking in prescription drugs of all types. As a result, millions of dollars in precious Medicaid funds have been siphoned off and the health of the public is in jeopardy. Adulterated or mishandled pharmaceutical drugs are being peddled by unscrupulous pharmacists and even on the street. When it comes to non-controlled substances, like HIV drugs and asthma medications, existing state law simply does not give law enforcement the necessary tools to curb the problem. Obtaining and reselling prescription drugs is a huge money maker for criminals, whether they do it on a limited basis or grand scale, while taxpayers and the severely ill pay the price."

James G. Sheehan, Medicaid Inspector General said, "The Office of the Medicaid Inspector General has been committed to monitoring the issue of drug diversion since its inception in 2006. Preventing drug diversion on the part of providers and recipients alike is part of OMIG's mission to protect the integrity of the Medicaid program. On behalf of the auditors, investigators, clinical staff and data mining professionals involved in this process, I appreciate having the opportunity to present testimony during this hearing."