

**UNAUTHORIZED PRACTICE OF A PROFESSION
(E Felony)
EDUCATION LAW 6512 (1)**

The _____ count is Unauthorized Practice of a Profession.

Under our law, a person is guilty of the Unauthorized Practice of a Profession when he or she,

Select the appropriate alternative:

not being authorized to practice (*specify profession*) for which a license is a prerequisite, practices or offers to practice or holds himself or herself out as being able to practice (*specify profession*).

practices (*specify the profession*) as an exempt person during the time when his or her professional license is suspended, revoked or annulled.

aids or abets an unlicensed person to practice (*specify the profession*).¹

fraudulently sells, files, furnishes, obtains, or who attempts fraudulently to sell, file, furnish or obtain any diploma,

¹ *People v Santi*, 3 NY3d 234 (2004) explained: “In interpreting the statute we are guided by a well-settled principle of statutory construction: courts normally accord statutes their plain meaning, but ‘will not blindly apply the words of a statute to arrive at an unreasonable or absurd result’. Indeed, ‘[t]he primary consideration of the courts in the construction of statutes is to ascertain and give effect to the intention of the Legislature’. Legislative intent drives judicial interpretations in matters of statutory construction . . . If the phrase ‘not authorized to practice under this title’ modified the pronoun ‘[a]nyone’ as defendant urges, the statute would necessarily be applied in an unreasonable manner . . . We conclude that Education Law § 6512 (1) does not exempt licensed physicians from prosecution under the statute. To the contrary, section 6512 (1) allows for the prosecution of any individual, licensed or not, that aids and abets an unauthorized individual in the practice of medicine.”

license, record or permit purporting to authorize the practice of (specify the profession).

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following term[s]: “practice” [and “exempt person”].

To “practice” the profession of (specify the object profession) means to (read the applicable portion of the statutory definition of the object profession)².

[An “exempt person” is (read the applicable portion of the statutory definition for the object profession)³.]

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in this 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),

Select the appropriate element two:

2. not being authorized to practice (specify the profession) for which a license is a prerequisite, practiced or offered to practice or held himself or herself out as being able to practice (specify the profession).

2. practiced (specify the profession) as an exempt person during the time when his or her professional license was suspended, revoked or annulled.

2. aided or abetted an unlicensed person to practice (specify the profession).

² See Education Law §§ 6500 - 8800 for definitions of each profession.

³ See Education Law §§ 6500 - 8800 for definitions of each profession.

2. fraudulently sold, filed, furnished, obtained, or attempted fraudulently to sell, file, furnish or obtain any diploma, license, record or permit purporting to authorize the practice of (*specify the profession*).

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Unauthorized Practice of a Profession as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Unauthorized Practice of a Profession as charged in the _____ count.