

ARTICLE 8A. NARCOTIC DRUGS

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§ 1385(1). [1] **Definitions.**—The following words and phrases, as used in this article, shall have the following meanings, unless the context otherwise requires:

(1) "Person" includes any corporation, association, co-partnership or one or more individuals.

(2) "Physician" means a person authorized by law to practice medicine in this State and any other person authorized by law to treat sick and injured human beings in the State and to use narcotic drugs in connection with such treatment.

(3) "Dentist" means a person authorized by law to practice dentistry in this State.

(4) "Veterinarian" means a person authorized by law to practice veterinary medicine in this State.

(5) "Manufacture" means a person who, by compounding, mixing, cultivating, growing, or other process, produces or prepares narcotic drugs, but does not include a pharmacist who compounds narcotic drugs to be sold or dispensed on prescriptions.

(6) "Wholesaler" means a person who supplies narcotic drugs that he himself has not produced or prepared, on official written orders, but not prescriptions.

(7) "Pharmacist" means a licensed pharmacist as defined by the laws of this State.

(8) "Pharmacy owner" means the owner of a store or other place of business where narcotic drugs are compounded or dispensed by a registered pharmacist; but nothing in this article contained shall be construed as conferring on a person who is not registered or licensed as a pharmacist any authority, right or privilege that is not granted to him by the pharmacy laws of this State.

(9) "Hospital" means an institution for the care and treatment of the sick and injured, approved by the state board of pharmacy as proper to be entrusted with the custody of narcotic drugs and the professional use of narcotic drugs under the direction of a physician, dentist, or veterinarian.

(10) "Laboratory" means a laboratory approved by the state board of pharmacy as proper to be entrusted with the custody of narcotic drugs and the use of narcotic drugs for scientific and medical purposes and for purposes of instruction.

(11) "Sale" includes barter, exchange, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee.

(12) "Cocoa leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture, or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecognine, or substances from which cocaine or ecognine may be synthesized or made.

(13) "Opium" includes morphine, codeine, and heroin, and any compound, manufacture, salt, derivative, mixture or preparation of opium.

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(14) "Cannabis" includes all parts of the plant *cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, of the sterilized seed of such plant which is incapable of germination.

(15) "Narcotic drugs" means coca leaves, opium, isonipecaine, cannabis, and every other substance neither chemically nor physically distinguishable from them, and any other drugs to which the federal laws relating to narcotic drugs may now apply, and any drug hereafter found by the state board of pharmacy to have an addiction-forming or addiction-sustaining liability similar to morphine or cocaine.

(16) "Federal narcotic laws" means the laws of the United States relating to opium, coca leaves, cannabis, and other narcotic drugs.

(17) "Official written order" means an order written on a form provided for that purpose by the United States commissioner of narcotics, under any laws of the United States making provisions therefor, if such order forms are authorized and required by federal law, and if no such order form is provided, then on an official form provided for that purpose by the state board of pharmacy.

(18) "Dispense" includes distribute, leave with, give away, dispose of, or deliver.

(19) "Registry number" means the number assigned to each person registered under the federal narcotic laws.

(20) "Isonipecaine" means the substance identified chemically as 1-methyl-4-phenyl-piperidine-4-carboxylic acid ethyl ester, or any salt thereof, by whatever trade name identified.

§ 1385(2). [2] **Prohibited manufacture, sale, etc.**—No person shall manufacture, possess, have under his control, sell, prescribe, administer, dispense, or compound any narcotic drug, except as authorized in this article.

§ 1385(3). [3] **License to Manufacture, etc., or Supply at Wholesale.**—No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce or prepare narcotic drugs, and no person as a wholesaler shall supply the same, without having first obtained a license so to do from the state board of pharmacy.

A fee of three dollars shall be charged and collected by the state board of pharmacy for each manufacturer's and each wholesaler's license issued under the provision of this section. The license shall be for the calendar year, and shall be renewable on the first day of January of each year.

§ 1385(4). [4] **Proof to be Furnished by Applicant for License; When Not to be Granted; Suspension or Revocation.**—No license shall be issued under the foregoing section unless and until the applicant therefor has furnished proof satisfactory to the state board of pharmacy.

(a) That the applicant is of good moral character, or if the applicant be an association or corporation, that the managing officers are of good moral character;

(b) That the applicant is equipped as to land, buildings, paraphernalia properly to carry on the business described in his application; and that his trade connections are such that there is reasonable probability that he will apply all narcotic drugs manufactured or sold by him to medicinal and scientific purposes;

(c) No license shall be granted to any person who has within five years been convicted of a wilful violation of any law of the United States, or of any state, relating to opium, coca leaves, or other narcotic drugs, or to any person who is a narcotic drug addict;

(d) The state board of pharmacy may suspend or revoke any license for cause.

§ 1385(5). [5] **Sales by Licensed Manufacturer or Wholesaler; Limitation on Right to Administer.**—(1) A duly licensed manufacturer or wholesaler may sell and dispense narcotic drugs to any of the following persons, but only on official written orders:

(a) To a manufacturer, wholesaler or pharmacist;

(b) To a physician, dentist or veterinarian;

(c) To a person in charge of a hospital, but only for use by or in that hospital: Provided, that the official written order is signed by a physician, dentist, veterinarian or pharmacist connected with such hospital;

(d) To a person in charge of a laboratory, but only for use in that laboratory for scientific and medical purposes.

(2) A duly licensed manufacturer or wholesaler may sell narcotic drugs to any of the following persons:

(a) On a special written order accompanied by a certificate of exemption as required by the federal narcotic laws, to a person in the employ of the United States government or of any state, territorial, district, county, municipal or insular government, purchasing, receiving, possessing or dispensing narcotic drugs by reason of his official duties;

(b) To a master of a ship or a person in charge of any aircraft upon which no physician is regularly employed, for the actual medical needs of persons on board such ship or aircraft, when not in port: Provided, that such narcotic drugs shall be sold to the master of such ship or person in charge of such aircraft only in pursuance of a special order form approved by a commissioned medical officer or acting assistant surgeon of the United States public health service;

(c) To a person in a foreign country if the provisions of the federal narcotic laws are complied with.

(3) An official written order for any narcotic drug shall be signed in duplicate by the person giving said order or by his duly authorized agent.

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The original shall be presented to the person who sells or dispenses the narcotic drug named therein. In event of the acceptance of such order by said person, each party to the transaction shall preserve his copy of such order for a period of two years in such a way as to be readily accessible for inspection by any public officers or employee engaged in the enforcement of this article. Compliance with the federal narcotic laws, by the parties to the transaction, shall be deemed compliance with this subsection, respecting the requirements governing the use of order forms.

(4) Possession of or control of narcotic drugs obtained as authorized by this section shall be lawful if in the regular course of business, occupation, profession, employment or duty of the possessor.

(5) A person in charge of a hospital or of a laboratory, or in the employ of this State or of any other state, or of any political subdivision thereof, and a master or other proper officer of a ship or aircraft, who obtains narcotic drugs under the provisions of this section or otherwise, shall not administer, nor dispense, nor otherwise use such drugs, within this state, except with the scope of his employment or official duty, and then only for scientific or medicinal purposes and subject to the provisions of this article.

§ 1385(6). [6] Sales by Pharmacists upon Prescriptions or by Legal Owner Discontinuing Business; Solutions Containing Narcotic Drugs.—(1) A pharmacist, in good faith, may sell and dispense narcotic drugs to any person upon a written prescription of a physician, dentist, or veterinarian: Provided, That such prescription is properly executed, dated and signed by the person prescribing on the day when issued, and bearing the full name and address of the patient for whom, or of the owner of the animal for which the drug is dispensed, and the full name, address, and registry number under the federal narcotic laws, of the person prescribing, if he is required by those laws to be so registered. If the prescription be for an animal, it shall state the species of animal for which the drug is prescribed. The person filling the prescription shall write the date of filling and his own signature on the face of the prescription. The prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of five years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this article. The prescription shall not be refilled.

In lieu of a written prescription for such narcotic drugs or compounds of a narcotic drug which the secretary of the treasury of the United States shall find and by regulation designate to possess relatively little or no addiction liability, a pharmacist may sell or dispense such drugs to a consumer upon the oral prescription of a physician, dentist or veterinarian, which oral prescription shall be reduced promptly to writing and the writing filed and preserved by the pharmacist for a period of five years from the date on which such prescription is filled in such a way as to be readily accessible to inspection by any public officer or employee engaged in the enforcement of this act. In issuing an oral prescription, the prescriber shall furnish the pharmacist with the same information as is required by law or regulation in case of a written prescription for narcotic drugs or compounds of a narcotic drug except for the written signature of the prescriber.

and the pharmacist who fills such prescription shall be required to inscribe such information on the written record of the prescription made, filed and preserved by him, and shall inscribe on the label of the container of the narcotic drug or compound of a narcotic drug the same information as is required in filling a written prescription. An oral prescription shall not be refilled.

If the secretary of the treasury of the United States shall subsequently determine that a narcotic drug or a compound of a narcotic drug, to which the oral prescription procedure has been made applicable, possesses a degree of drug addiction liability that results in abusive use of such procedure, the oral prescription procedure shall cease to apply to the particular narcotic drug or to the particular compound of a narcotic drug after the expiration of a period of six months from the date of publication in the federal register.

(2) The legal owner of any stock of narcotic drugs in a pharmacy, upon discontinuance of dealing in said drugs, may sell said stock to a manufacturer, wholesaler, pharmacist or pharmacy owner, but only on an official written order.

(3) A pharmacist, only upon an official written order, may sell to a physician, dentist or veterinarian, in quantities not exceeding one ounce at any one time, aqueous or oleaginous solutions of which the content of narcotic drug does not exceed a proportion greater than twenty per cent of the complete solution, to be used for legitimate office practice. The original order form must be filed by the pharmacist with his narcotic prescriptions. Each package containing an aqueous or oleaginous solution so furnished must bear a label showing the date and number of the order form, the name and proportion of narcotic drug contained in the solution, the name, address, and registry number of the person furnishing the order, and the name, address, and registry number of the pharmacist or pharmacy owner filling the order.

§ 1385(7). [7] **Prescription for, or Administering, Narcotic Drugs by Physician, Dentist or Veterinarian.**—(1) A physician or a dentist, in good faith and in the course of his professional practice only, may prescribe on written prescription, administer, and dispense narcotic drugs, or he may cause the same to be administered by a nurse or interne under his direction and supervision. Such a prescription shall be dated and signed by the person prescribing on the day when issued, and shall bear the full name and address of the patient for whom the narcotic drug is prescribed, and the full name, address and registry number under the federal narcotic laws of the person prescribing: Provided, that he is required by those federal laws to be so registered.

(2) A veterinarian, in good faith and in the course of his professional practice only, and not for use by a human being, may prescribe on written prescription, administer, and dispense narcotic drugs, and he may cause them to be administered by an assistant or orderly under his direction and supervision. Such a prescription shall be dated and signed by the person prescribing on the day when issued and shall bear the full name and address of the owner of the animal, and the species of the animal, for which the

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§ 1385(8). [8] **To What Acts or Sales Article Not Applicable.**—Except as otherwise in this article specifically provided, this article shall not apply to the following cases:

(1) Prescribing, administering, dispensing, or selling at retail of any medicinal preparation that contains not more than two grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid ounce, or if a solid or semi-solid preparation, in one avoirdupois ounce.

(2) Prescribing, administering, dispensing, or selling at retail of liniments, ointments, and other preparations that are susceptible of external use only and that contain narcotic drugs in such combinations as prevent their being readily extracted from such liniments, ointments, or preparations, except that this article shall apply to all liniments, ointments, and other preparations, that contain coca leaves in any quantity or combination;

(3) The exceptions authorized by this section shall be subject to the following conditions:

(a) The medicinal preparation, or the liniment, ointment, or other preparations susceptible of external use only, prescribed, administered, dispensed, or sold, shall contain, in addition to the narcotic drug in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the narcotic drug alone;

(b) Such preparation shall be prescribed, administered, compounded, dispensed, and sold in good faith as a medicine, and not for the purpose of evading the provisions of this article;

(c) Nothing in this section shall be construed to limit the kind and quantity of any narcotic drug that may be prescribed, administered, compounded, dispensed, or sold, to any person or for the use of any person or animal, when it is prescribed, administered, compounded, dispensed, or sold, in compliance with the general provisions of this article.

§ 1385(9). [9] **Records to be Kept by Physicians, Manufacturers, Pharmacists and Others.**—(1) Every physician, dentist, veterinarian, or other person who is authorized to administer or professionally use narcotic drugs, shall keep a record of such drugs received by him, and a record of all such drugs administered, dispensed, or professionally used by him otherwise than prescription. The keeping of a record by any such person using small quantities of solutions or other preparations of such drugs for local application, of the quantity, character, and potency of such solutions or other preparations purchased or made up by him, and of the date when purchased or made up, without keeping a record of the amount of such solution or other preparation applied by him to individual patients, shall constitute a sufficient compliance with this subsection.

(2) Manufacturers and wholesalers shall keep records of all narcotic drugs compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection five of this section.

(3) Pharmacists and pharmacy owners shall keep records of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection five of this section.

(4) Every person who purchases for resale, or who sells narcotic drug preparations exempted by section eight [§ 1385(8)] of this article, shall keep a record showing the quantities and kinds thereof received and sold, or disposed of otherwise, in accordance with the provisions of subsection five of this section.

(5) The form of records shall be prescribed by the state board of pharmacy. The record of narcotic drugs received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received, the kind and quantity of narcotic drugs produced or removed from process of manufacture, and the date of such production or removal from process of manufacture; and the record shall in every case show the proportion of morphine, cocaine, or ecognine contained in or producible from crude opium of coca leaves received or produced, and the proportion of resin contained in or producible from the plant cannabis sativa, L., received or produced.

The record of all narcotic drugs sold, administered, compounded, dispensed, or otherwise disposed of, shall show the date of selling, administering, compounding, or dispensing, the name and address of the person to whom or for whose use, or the owner and species of animal for which the drugs were sold, administered, compounded, or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period two years from the date of the transaction recorded. The keeping of a record required by or under the federal narcotic laws, containing substantially the same information as is specified above, shall constitute compliance with this section, except that every record shall contain a detailed list of narcotic drugs lost, destroyed, or stolen, if any, the kind and quantity of such drugs, and the date of the discovery of such loss, destruction, or theft.

§ 1385(10). [10] Labels Affixed to Narcotic Drugs Sold or Dispensed.

—(1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. No person, except a pharmacist for the purpose of filling a prescription under this article shall alter, deface, or remove any label so affixed.

(2) Whenever a pharmacist sells or dispenses any narcotic drug on a prescription issued by a physician, dentist or veterinarian, he shall affix to the container in which said drug is sold or dispensed, a label showing his name or the name of the store, address, and registry number, or the name, address, and registry number of the pharmacist for which he is lawfully acting; the serial number of the prescription; the name and address of the

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patient, or, if the patient is an animal, the name and address of the owner of the animal and the species of the animal; the name, address and registry number of the physician, dentist, or veterinarian, as by whom the prescription was written; and such directions as may be stated on the prescription. No person shall alter, deface, or remove any label so affixed, so long as any of the original contents remain.

§ 1385(11). [11] Narcotic Drug to Remain in Container in Which Sold.

—A person to whom or for whose use any narcotic drug has been prescribed, sold or dispensed, by a physician, dentist, pharmacist, or other person authorized under the provisions of section five [§ 1385(5)] of this article, and the owner of any animal for which any such drug has been prescribed, sold, or dispensed, by a veterinarian, may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing the same.

§ 1385(12). [12] To Whom Provisions Restricting Possession and Control Do Not Apply.—The provisions of this article restricting the possessing and having control of narcotic drugs shall not apply to common carriers or to warehousemen, while engaged in lawfully transporting or storing such drugs, or to any employee of the same acting within the scope of his employment; or to public officers or their employees in the performance of their official duties requiring possession or control of narcotic drugs; or to temporary incidental possession by employees or agents of persons lawfully entitled to possession, or by persons whose possession is for the purpose of aiding public officers in performing their official duties.

§ 1385(13). [13] What Stores, Vehicles, etc., Deemed Common Nuisances.—Any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by narcotic drug addicts for the purpose of using narcotic drugs or which is used for the illegal keeping or selling of the same, shall be deemed a common nuisance. No person shall keep or maintain such a common nuisance.

§ 1385(14). [14] Forfeiture of Narcotic Drugs.—All narcotic drugs, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer, shall be forfeited, and disposed of as follows:

(a) The court or magistrate having jurisdiction shall immediately notify the state board of pharmacy and unless otherwise requested within fifteen days by the state board of pharmacy, in accordance with subsection (b) of this section shall order such narcotic drugs forfeited and destroyed. A record of the place where said drugs were seized, of the kinds and quantities of drugs so destroyed, and of the time, place, and manner of destruction, shall be kept, and a return under oath, reporting said destruction, shall be made to the court or magistrate and to the United States commissioner of narcotics, by the officer who destroys them;

(b) Upon written application by the state board of pharmacy the court or magistrate by whom the forfeiture of narcotic drugs has been decreed may order the delivery of any of them, except heroin and its salts and derivatives, to said state board of pharmacy, for distribution or destruction, as hereinafter provided;

(c) Upon application by any hospital or institution within this State, not operated for private gain, the state board of pharmacy may in its discretion deliver any narcotic drugs that have come into its custody by authority of this section to the applicant for medicinal or scientific use. The state board of pharmacy may from time to time deliver excess stocks of such narcotic drugs to the United States commissioner of narcotics or may destroy same;

(d) The state board of pharmacy shall keep a full and complete record of all drugs received and of all drugs disposed of, showing the exact kinds, quantities, and forms of such drugs; the persons from whom received and to whom delivered; by whose authority received, delivered, and destroyed; and the dates of the receipt, disposal, or destruction, which record shall be open to inspection by all federal or state officers charged with the enforcement of federal and state narcotic laws.

§ 1385(15). [15] To Whom Copy of Judgment and Sentences to be Sent; Suspension or Revocation of License; Reinstatement.—On the conviction of any person of the violation of any provision of this article, a copy of the judgment and sentence, and of the opinion of the court or magistrate, if any opinion be filed, shall be sent by the clerk of the court, or by the magistrate, to the board or officer, if any, by whom the convicted defendant has been licensed or registered to practice his profession or to carry on his business. A duplicate copy of the judgment and sentence and opinion, if any opinion be filed, shall be sent to the state board of pharmacy.

On the conviction of any such person the court may, in its discretion, suspend or revoke the license or registration of the convicted defendant to practice his profession or to carry on his business. On the application of any person whose license or registration has been suspended or revoked, and upon proper showing and for good cause, said board or officer may reinstate such license or registration.

§ 1385(16). [16] Inspection of Prescriptions, etc., Divulging Knowledge Obtained Thereby.—Prescriptions, orders, and records, required by this article, and stocks of narcotic drugs, shall be open for inspection only to federal, state, county and municipal officers, whose duty it is to enforce the laws of this State or of the United States relating to narcotic drugs. No officer having knowledge by virtue of his office of any such prescription, order or records shall divulge such knowledge, except in connection with a prosecution or proceedings in court or before a licensing or registration board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate, is a party.

§ 1385(17). [17] Obtaining Narcotic Drugs by Fraud, etc.—(1) No person shall obtain or attempt to obtain a narcotic drug or procure or attempt to procure the administration of a narcotic drug, (a) by fraud, deceit, misrepresentation, or subterfuge; or (b) by forgery or alteration of a prescription or of any written order; (c) by the concealment of a material fact; or (d) by the use of a false name or the giving of a false address.

(2) Information communicated to a physician in an effort to unlawfully procure a narcotic drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

(3) No person shall, without order, report, or

(4) No person shall assume the title of pharmacist, pharmacist, or pharmacist, without being a licensed person.

(5) No person shall forge or forged written

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(7) The person who is to narcotic drugs, and in this article, and in

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§ 1385(19) any narcotic sold, kept, stored, house or other place, or intermediate city, town or village, with authority that there is such house under this vehicle, or narcotic drug are overtaken criminal or of any city be vested automobile or any of law.

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(3) No person shall wilfully make a false statement in any prescription, order, report, or record, required by this article.

(4) No person shall, for the purpose of obtaining a narcotic drug, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, pharmacy owner, physician, dentist, veterinarian, or other authorized person.

(5) No person shall make or utter any false or forged prescription or false or forged written order.

(6) No person shall affix any false or forged label to a package or receptacle containing narcotic drugs.

(7) The provisions of this section shall apply to all transactions relating to narcotic drugs under the provisions of section eight [§ 1385(8)] of this article, and in the same way as they apply to transactions under all other sections.

§ 1385(18). [18] Indictments Need Not Negative Exceptions, etc.—In any complaint, information or indictment, and in any action or proceeding brought for the enforcement of any provision of this article, it shall not be necessary to negative any exception, excuse, proviso, or exemption, contained in this article, and the burden of proof of any such exception, excuse, proviso, or exemption, shall be upon the defendant.

§ 1385(19). [19] Search Warrants.—If there be complaint, on oath, that any narcotic drug or drugs, as defined by this article, are being manufactured, sold, kept, stored, or in any manner held, used or concealed in a particular house or other place, in violation of law, a justice of the peace, circuit, criminal or intermediate court, or the judge thereof, in vacation, or the mayor of any city, town or village, or any person or tribunal which may hereafter be vested with authority to issue warrants, to whom such complaint is made, if satisfied that there is a probable cause for such belief, shall issue a warrant to search such house or other place for narcotic drugs. Warrants may also be issued under this article for the search of any automobile, boat, conveyance or vehicle, or for the search of any trunk, grip or other article of baggage for narcotic drugs, and may be executed in any part of the State where the same are overtaken, and shall be returnable before any justice of the peace, circuit, criminal or intermediate court, or the judge thereof, in vacation, or the mayor of any city, town or village, or any person or tribunal which may hereafter be vested with authority to issue warrants, within whose jurisdiction such automobile, boat, conveyance, vehicle, trunk, grip or other article of baggage, or any of them, were transported or attempted to be transported contrary to law.

An officer charged with the execution of a warrant issued under this section may, wherever it is necessary, break open and enter a house or other place herein described, or any conveyance, container or receptacle described in this section. Warrants issued under this section may be executed by any member of the department of public safety of West Virginia, sheriff or deputy sheriff of any county, constable, and the police officers of any incorporated city, town or village.

§ 1385(20). [20] **Written Prescription Required for Sale of Chloral Hydrate, etc.**—No chloral hydrate, or any compound, manufacture, mixture, or preparation thereof containing over two grains to the ounce, shall be sold at retail or dispensed at retail to any person except upon the written prescription of a physician, dentist, or veterinarian: Provided, however, that nothing in this section shall prevent a registered pharmacist from supplying any of the said drugs to a physician, dentist, veterinarian, or accredited hospital for medicinal use.

§ 1385(21). [21] **Written Prescription Required for Sale of Malonylurea (Barbituric Acid), etc.**—No malonylurea (barbituric acid), as such, or diethyl-malonylurea, as such, or any sodium or potassium salt of either of them, under whatever name they may be designated, or any sodium or potassium salt of any chemical derivative of malonylurea, or diethyl-malonylurea, under whatever name they may be designated, that may be classed as a dangerous hypnotic or narcotic as defined by regulations of the state board of pharmacy, shall be sold at retail or dispensed at retail to a person except upon the written prescription of a physician, dentist, or veterinarian: Provided, however, that nothing in this section shall prevent a registered pharmacist from supplying any of the said drugs to physicians, dentists, veterinarians and/or accredited hospitals for medicinal use; Provided further, that in order to carry out the intent of this section to control the misuse of certain drugs that no malonylurea or any of its salts, derivatives, mixtures, or preparations thereof shall be sold or dispensed, at retail, by any person not a pharmacist as defined.

§ 1385(22). [22] **Enforcement of Article.**—The state board of pharmacy, its officers, agents, inspectors, and representatives, and all peace officers within the State, and all prosecuting attorneys of the State shall enforce all provisions of this article, except those specifically delegated, and shall cooperate with all agencies charged with the enforcement of the laws of the United States, of this State, and of all other states, relating to narcotic drugs.

§ 1385(23). [23] **Penalties for Violations.**—Whoever violates any provision of this article shall, upon conviction, be fined not more than one thousand dollars and be imprisoned not less than two nor more than five years. For a second offense, or if, in case of a first conviction of violation of any provision of this article, the offender shall previously have been convicted of any violation of the laws of the United States or any other state, territory or district relating to narcotic drugs or marihuana, the offender shall be fined not more than five thousand dollars and be imprisoned not less than five nor more than ten years. For a third or subsequent offense, or if the offender shall previously have been convicted two or more times in the aggregate of any violation of the law of the United States or of any other state, territory or district relating to narcotic drugs or marihuana, the offender shall be fined not more than ten thousand dollars and be imprisoned not less than ten nor more than twenty years.

Except in the case of conviction for a first offense for violation of the provisions of this article, the imposition or execution of sentence shall not be suspended and probation or parole shall not be granted until the minimum

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imprisonment herein provided for the offense shall have been served. The court shall in each case fix and determine the exact length of sentence to be served for each conviction.

§ 1385(24). [24] **Previous Acquittal or Conviction of Same Violation under Federal Narcotic Act.**—No person shall be prosecuted for a violation of any provision of this article if such person has been acquitted or convicted under the federal narcotic laws of the same act or omission which, it is alleged, constitutes a violation of this article.

§ 1385(25) [25] **Construction of Article.**—This article shall be interpreted and construed as to effectuate its general purpose, to make uniform the laws of these states which enact it.

§ 1385(26). [26] **How Article Cited.**—This article may be designated and cited as the "Uniform Narcotic Drug Act."