

# MAINE STATE LEGISLATURE

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REVISED STATUTES  
OF THE  
STATE OF MAINE  
1954

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1959 CUMULATIVE SUPPLEMENT

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ANNOTATED

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IN FIVE VOLUMES

VOLUME 2

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**Place in Pocket of Corresponding  
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THE MICHIE COMPANY  
CHARLOTTESVILLE, VIRGINIA  
1959

to practice physical therapy. Said board may also revoke or suspend any license where such license has been obtained by fraud or misrepresentation. Said board may suspend the license of any physical therapist who has been declared insane by a court of competent jurisdiction and has not thereafter been lawfully declared sane. (1955, c. 271, § 1.)

## Chapter 68.

### Registration of Apothecaries. Drugs, Poisons and Narcotics.

#### Commissioners of Pharmacy.

**Sec. 1. Commissioners of the profession of pharmacy, nomination and appointment; tenure; vacancies; compensation; expenses.**—A board of commissioners of the profession of pharmacy, as heretofore established and hereinafter in this chapter called the “board,” shall consist of 5 pharmacists all of whom shall be residents of the state and actually engaged in the practice of their profession, who shall be appointed and may be removed for cause by the governor with the advice and consent of the council. The terms of office of said commissioners shall be so arranged that one member of said board shall be appointed annually as the term of the present members expire, to hold office for 5 years from the 1st day of December in each year or until his successor is appointed and qualified. Vacancies shall be filled by appointment for the unexpired term. The board shall have power:

- I. To make such rules and regulations, not inconsistent with the laws of the state, as may be necessary for the regulation and practice of the profession of pharmacy and the lawful performance of its duties;
- II. To regulate the sale of poisons and to adopt schedules of those poisons of which a written record shall be kept by the retailer;
- III. To inspect during business hours all apothecaries, dispensaries, stores or places in which drugs or medicines are manufactured, compounded, dispensed or retailed, and to regulate and control the sale, character and standard of all drugs, poison and medicines compounded or dispensed in this state; to secure samples and cause them to be analyzed; and to prevent the sale of such drugs, poisons or medicines as do not conform to the provisions of this chapter;
- IV. To investigate all violations of this chapter; to enforce the provisions thereof; and to prosecute or institute prosecution in all instances of violations thereof.

The Maine pharmaceutical association may, at its annual meeting each year, nominate 6 members of said association, whose names shall be forthwith certified by the president and secretary of said association to the governor, and members of said board, appointed during any year, shall be selected from the persons whose names are so certified for said year, unless in the opinion of the governor said persons are manifestly unsuitable or incompetent.

The members of the board shall each receive as compensation for their services \$20 per day for the time actually spent and their necessary expenses incurred in the discharge of their duties. The secretary of the board shall certify to the accounts. The secretary of the board shall be the treasurer thereof and shall receive all fees, charges and assessments payable to the board, and account for and pay over the same according to law. (R. S. c. 62, § 1. 1947, c. 58. 1957, c. 304, § 1.)

**Effect of amendment.** — The 1957 amendment inserted “of the profession” following “board of commissioners” at the beginning of the first sentence, substituted “and practice of the profession of” for “of the business appertaining to the practice of” in subsection I, added all of the provisions relative to sale, charac-

ter and standards and relative to samples in subsection III, inserted subsection IV, and increased the compensation men-

**Sec. 2-A. Employees.**—The board shall be empowered to appoint and remove, subject to the provisions of the personnel law, a drug inspector to enforce the provisions of this chapter and the rules and regulations of the board. (1957, c. 304, § 2.)

**Sec. 4. Complaints against registered apothecaries; notice and hearing.**—The board shall hear all complaints against any person registered as an apothecary for the violation of any of the requirements of this chapter to be performed by a registered apothecary. Such complaints shall be made in writing and shall set out the offense alleged. The person against whom complaint is made shall be notified of the charge made against him and of the time and place when and where the matter will be heard, at least 14 days before the date fixed for the hearing. He may then and there appear before the board with his witnesses and be heard by counsel. Any member of the board may administer oaths to the witnesses at such hearings, and any person so sworn who willfully swears or affirms falsely respecting any matter upon which his testimony is required shall be deemed guilty of perjury. Such board may send for persons and compel the attendance of witnesses at said hearings by process duly served. (R. S. c. 62, § 4. 1957, c. 304, § 3.)

**Effect of amendment.**—Prior to the 1957 amendment the second sentence also provided the time within which com-

plaints should be made and that they should be made under oath.

**Sec. 5. Certificate suspended or revoked.**—If the full board sitting at such hearing shall find that the person so complained against is guilty of the act charged against him, said board may suspend his registration as a pharmacist and his certificate thereof, for such term as the board in their judgment, after due consideration of the facts, may deem for the best interest of the public, or may revoke it altogether. (R. S. c. 62, § 5. 1957, c. 304, § 4.)

**Effect of amendment.**—Prior to the 1957 amendment this section also provided that the certificate of registration should not be suspended or revoked for a

cause punishable by law until after conviction by a court of competent jurisdiction.

**Sec. 6. Examination and certification of apothecaries; certificates issued to persons registered in other states; certificates displayed; examination of registered assistant pharmacists.**—Every person not already registered, entering upon the business of an apothecary, upon the payment of a fee of \$25 to the secretary of said board, except as otherwise provided, shall be examined by said commissioners and shall present to them satisfactory evidence that he had been graduated from some regularly incorporated college of pharmacy and has been employed in such an apothecary store for at least one year, and is competent for the business. Such employment in an apothecary store may be accumulated during the years at the college of pharmacy. The commissioners may give him a certificate of the fact and that he is authorized to engage in the business of an apothecary, and such certificate must be signed by at least 3 members of the board. No such certificate shall be issued unless the applicant is at least 21 years of age, of good moral character, a citizen of the United States and a graduate of a school or college of pharmacy or a department of pharmacy of a university, accredited by the American council on pharmaceutical education, and shall file proof satisfactory to the board, substantiated by proper affidavits, of sufficient service and experience in a retail pharmacy under the supervision of a registered or licensed pharmacist; and shall pass an examination by said board. Service and experience in a retail pharmacy under the supervision of a licensed or registered pharmacist as

required in this section shall be predominantly related to the selling of drugs, compounding physicians' prescriptions, preparing pharmaceutical preparations and keeping records and making reports required under the state and federal statutes. The board may, in its discretion, grant certificates of registration to such persons as shall furnish with their application satisfactory proof that they have been registered in some other state, provided that such other state shall require a degree of competency equal to that required of applicants of this state. Persons of good character who have become registered as pharmacists by examination in other states prior to July 3, 1931 shall be required to satisfy only the requirements which existed in this state at the time when they became registered in such other states; and provided also that the state in which such person is registered shall, under like conditions, grant reciprocal registration as a pharmacist, without examination, to pharmacists duly registered by examination in this state. All certificates or permits issued under the provisions of this chapter shall be constantly displayed, in a conspicuous place, in the store or shop of the persons to whom the same were issued.

Every person holding a valid and unexpired certificate of registration as a registered assistant pharmacist, in the state of Maine, on July 1, 1960, may be permitted to qualify as a registered pharmacist by examination as such, prior to July 1, 1966, provided such a registered assistant pharmacist has held such a certificate for a minimum of 5 years and shall have been in actual practice as a registered assistant as actively engaged in retail or hospital practice or pharmacy for a minimum of at least 3 years immediately preceding the date of his application for examination by the Maine state board of pharmacy as a registered pharmacist. No applicant who fails in 2 such examinations, by July 1, 1966, shall be permitted to qualify for any additional examinations as a registered pharmacist. (R. S. c. 62, § 6. 1957, c. 304, §§ 5-7. 1959, c. 234, §§ 1-3; c. 277, § 1.)

**Effect of amendments.** — The 1957 amendment increased the fee in the first sentence from \$15 to \$25 and rewrote the provisions as to schooling and experience of applicants in such sentence, deleted the former fifth sentence which pertained to re-examinations, and also deleted the former eighth sentence which provided for registration of only one partner in a firm.

This section was amended twice by the 1959 legislature. P. L. 1959, c. 234, amended this section three times. Section 1 added the second sentence. Section 2 substituted "3 members" for "2 members" in the third sentence. Section 3 rewrote the fourth sentence. P. L. 1959, c. 277, § 1, added the last paragraph.

**Editor's note.** — P. L. 1959, c. 277, amending this section and repealing § 7, provided in sections 3 and 4 thereof as follows:

"Sec. 3. (Intent) It is the intent of the Legislature that those persons holding a valid and unexpired certificate of registered assistant pharmacist on the effective date of this act shall continue to enjoy all the privileges held under the repealed act, and that their certificates shall remain valid, despite the fact that there will be no provision from the effective date of this act for examining and certifying registered assistant pharmacists.

"Sec. 4. Effective date. The provisions of this act shall become effective on July 1, 1960."

**Sec. 7.** Repealed by Public Laws 1959, c. 277, § 2.

**Cross reference.**—See Editor's note to § 6.

**Sec. 8. Registration renewal; fee.** — Every registered pharmacist and every qualified assistant who desires to continue to practice pharmacy in this state shall annually, after the expiration of the first year of his registration, on or before the last day of June, pay a renewal fee of \$3 to the secretary of the board, in return for which a renewal registration shall be issued. If any person shall fail or neglect to procure his annual renewal registration or permit as herein specified, notice of such failure having been mailed to his post-office address, the board

may, after the expiration of 30 days following the issue of said notice, suspend his original registration and all other privileges conferred by this chapter. Such person in order to regain registration shall be required to pay one renewal fee in addition to the sum of all fees such person may be in arrears. (R. S. c. 62, § 8. 1951, c. 130, § 1. 1957, c. 304, § 9.)

**Effect of amendment.** — The 1957 amendment increased the renewal fee from \$2 to \$3 in the first sentence.

### **Sec. 9. Annual store registration; procedure; revocation.**

The application for such a permit shall be made on a form to be prescribed and furnished by said board and shall be accompanied by the required fee of \$15, which amount shall also be paid for each renewal of such permit. If it is desired to operate, maintain, open or establish more than one apothecary store, separate applications shall be made and separate permits issued for each.

(1957, c. 304, § 10.)

**Effect of amendment.** — The 1957 amendment increased the fee in the second paragraph from \$5 to \$15. As only the second paragraph was changed by the amendment, the rest of the section is not set out.

## **Use or Sale of Drugs and Poisons.**

### **Sec. 14. Business of apothecary.**

The provisions of this section shall not apply to physicians, hospitals and sanatoriums who supply medicines to their bona fide patients, nor to nonpoisonous patent or proprietary medicines when sold in original and unbroken packages nor to the following remedies; alum, chloride of lime, vaseline, petroleum jelly, cream of tartar, borax, baking soda, castor oil, flax seed, carbonate of soda, ammonia, sulphur, olive oil, saltpetre, epsom salts, cotton seed oil, cod liver oil, linseed oil, flavoring extracts, boric acid, aromatic spirits ammonia, iso-propyl, alcohol, acetic acid, citric acid, camphorated oil, camphor, chalk, flexible collodion, essence of peppermint, witch hazel, glauber salts, glycerine, gum arabic, peroxide hydrogen, milk of magnesia, aspirin, oil sweet almond, mineral oil U. S. P., zinc oxide ointment, seidlitz powders, rochelle salts, senna leaves, antiseptic solution N. F., solution citrate magnesia U. S. P., sugar of milk, soda mint tablets and compound tincture benzoin; nor to Paris green, London purple or other poisonous preparations or compounds used for the destruction of bugs, beetles, insects, slugs, grubs and fungi provided that the package is properly labeled. In towns and villages where registered apothecaries are not located and where necessity exists for some means of obtaining drugs and medicines, the commission shall designate such drugs and medicines other than those designated in this section, as might with safety to the public health, be sold in original packages as and when put up and labeled by qualified pharmacists. (R. S. c. 62, § 14. 1957, c. 304, § 11.)

**Effect of amendment.** — The 1957 amendment inserted in the second paragraph in the list of remedies which are exempted the word "iso-propyl", deleted the word "rubbing" which formerly preceded the word "alcohol" in such list, and

also deleted "quinine pills" and "potassium chlorate tablets" which formerly appeared in such list.

As only the second paragraph was changed by the amendment, the first paragraph is not set out.

**Sec. 15.** Repealed by Public Laws 1957, c. 304, § 12.

**Sec. 20. Violation of §§ 18, 19.**—Whoever violates any provision of the 2 preceding sections, or aids or abets another in the violation thereof, shall be punished by a fine of not less than \$50 nor more than \$1,000, or by imprisonment for not more than 11 months, or by both such fine and imprisonment. The county attorney in each county, upon complaint made by any member of the board or its inspectors or of the bureau of health, shall prosecute all violations of the provisions of this chapter. Trial justices shall have original and concur-

rent jurisdiction with municipal courts and the superior court of offenses under the provisions of the 2 preceding sections. (R. S. c. 62, § 20, 1957, c. 304, § 13.)

**Effect of amendment.** — The 1957 amendment inserted the words "or its inspectors" in the second sentence.

### Sec. 24. Sale of certain drugs.

Nothing in this chapter shall apply to a compound, mixture or preparation containing salts or derivatives of barbituric acid which is sold in good faith by a pharmacy for the purpose for which it is intended and not for the purpose of evading the provisions of this chapter if:

- I. Such compound, mixture or preparation contains a sufficient quantity of another drug or drugs, in addition to such salts or derivatives, to cause it to produce an action other than its hypnotic or somnifacient action; or
- II. Such compound, mixture or preparation is intended for use as a spray or gargle or for external application and contains, in addition to such salts or derivatives, some other drug or drugs rendering it unfit for internal administration. (R. S. c. 62, § 24, 1957, c. 304, § 14.)

**Effect of amendment.** — The 1957 amendment added the above paragraph at the end of this section. As the first paragraph was not changed by the amendment, it is not set out.

## Use or Sale of Narcotic Drugs.

### Sec. 33. Definitions.

III. Repealed by Public Laws 1957, c. 429, § 66.

X-A. "Isonipecaïne" 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.

VI. "Commission" means Maine board of commissioners of the profession of pharmacy.

XIV. "Narcotic drugs" means coca leaves, opium, isonipecaïne, 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 found by the director of health, after reasonable notice and opportunity for hearing, to have an addiction-forming or addiction-sustaining liability similar to morphine or cocaine from the date of publication of such finding by said director of health.

XXIV. "Secretary" means the secretary of the Maine board of commissioners of the profession of pharmacy.

(1957, c. 191, §§ 1, 2; c. 304, § 15; c. 429, §§ 66-69.)

**Effect of amendments.** — This section was amended three times in 1957. Chapter 191, § 1, inserted subsection X-A. Chapter 191, § 2, rewrote subsection XIV. Chapter 304, § 15, also amended subsection XIV but did not refer to or give effect to the first amendment. However, chapter 429, § 68, which referred to both prior 1957 amendments, re-enacted subsection XIV as it had been rewritten by chapter 191, § 2. Chapter 429, § 66 repealed subsection III. Section 67 added the words "of the profession" in subsection VI. Section 69 added the words "of the profession" in subsection XXIV. As the rest of the section was not changed by the amendments, only the subsections affected are set out. Chapter 429 became effective on its approval, October 31, 1957.

### Sec. 37. Sale on written orders; orders; possession.

I.

B. To a physician, dentist, podiatrist or veterinarian.

(1957, c. 111, § 1.)

**Effect of amendment.** — The 1957 amendment inserted the word "podiatrist" in paragraph B of subsection I. As the rest of the section was not changed by the amendment, only paragraph B of subsection I is set out.

**Sec. 38. Sales by apothecaries.—**

**I.** An apothecary, in good faith, may sell and dispense narcotic drugs to any person upon a written prescription, or an oral prescription in pursuance to regulations promulgated by the United States commissioner of narcotics under federal narcotic laws in effect on August 20, 1955, of a physician, dentist, podiatrist or veterinarian, 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 2 years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of the provisions of this chapter. The prescription shall not be refilled. (1955, c. 292. 1957, c. 111, § 2)

**III.** An apothecary, only upon an official written order, may sell to a physician, dentist, podiatrist or veterinarian, in quantities not exceeding one ounce at any one time, aqueous or oleaginous solutions of which the content of narcotic drugs does not exceed a proportion greater than 20% of the complete solution, to be used for medical purposes. [1957, c. 111, § 3]. (R. S. c. 62, § 39. 1955, c. 292. 1957, c. 111, §§ 2, 3.)

**Effect of amendments.** — The 1955 amendment inserted the provision as to an oral prescription in the first sentence of subsection I.

The 1957 amendment substituted "August 20, 1955" for "the effective date of

the act" in the first sentence of subsection I and inserted the word "podiatrist" in subsections I and III.

As subsection II was not changed by the amendments, it is not set out.

**Sec. 39. Professional use of narcotic drugs.—**

**I. Physicians, dentists and podiatrists.** A physician, dentist or a podiatrist, in good faith and in the course of his professional practice only, may prescribe, administer and dispense narcotic drugs, or he may cause the same to be administered by a nurse or interne under his direction and supervision.

**III. Return of unused drugs.** Any person, who has obtained from a physician, dentist, podiatrist or veterinarian any narcotic drug for administration to a patient during the absence of such physician, dentist, podiatrist or veterinarian, shall return to such physician, dentist, podiatrist or veterinarian any unused portion of such drug when it is no longer required by the patient. (R. S. c. 62, § 40. 1957, c. 111, § 4.)

**Effect of amendment.** — The 1957 amendment made subsections I and III applicable also to podiatrists.

As subsection II was not changed by the amendment, it is not set out.

**Sec. 40. Preparations exempted.**

**I.** Prescribing, administering, dispensing or selling at retail of any medicinal preparation that contains in one fluid ounce, or if a solid or semisolid preparation, in one avoirdupois ounce:

- A.** Not more than 2 grains of opium,
- B.** Not more than  $\frac{1}{4}$  of a grain of morphine or of any of its salts,
- C.** Not more than one grain of codeine or of any of its salts,
- D.** Not more than  $\frac{1}{6}$  of a grain of dihydrocodeinone or any of its salts,
- E.** Not more than 2 grains of noscopine, formerly narcotine or any of its salts,
- F.** Not more than 2 grains of papaverine or any of its salts,

- G. Not more than  $\frac{1}{2}$  grain of dihydrocodeine or any of its salts, and
- H. Not more than one of the drugs named above in paragraphs A, B, C, D, E, F and G.

## II.

A. No person shall prescribe, administer, dispense or sell under the exemptions of this section to any one person, or for the use of any one person or animal, any preparation or preparations included within this section, when he knows or can by reasonable diligence ascertain that such prescribing, administering, dispensing or selling will provide the person to whom or for whose use, or the owner of the animal for the use of which, such preparation is prescribed, administered, dispensed or sold, within any 48 consecutive hours, with more than 4 grains of opium, or more than  $\frac{1}{2}$  grain of morphine or of any of its salts, or more than 2 grains of codeine or of any of its salts, or will provide such person or the owner of such animal, within 48 consecutive hours, with more than one preparation exempted from the provisions of this chapter.

(1957, c. 191, § 3; c. 304, §§ 16, 17; c. 429, § 70.)

**Effect of amendments.**—This section was amended three times in 1957. Chapter 191, § 3, repealed paragraphs D and E of subsection I and enacted new paragraphs D to H in lieu thereof. Chapter 304, § 16, which did not refer to or give effect to the first amendment, deleted former paragraphs D and E of subsection I and enacted a new paragraph D in lieu thereof. However, chapter 429, § 70, which became effective on its approval, October 31, 1957, and which referred to both

prior 1957 amendments, re-enacted subsection I as amended by chapter 191, § 3.

Chapter 304, § 17, amended paragraph A of subsection II by deleting the words "or more than  $\frac{1}{4}$  of a grain of heroin or of any of its salts" which formerly appeared near the end of such paragraph.

As only subsection I and paragraph A of subsection II were changed by the amendments, the rest of the section is not set out.

### Sec. 41. Record kept.—

**I. Physicians, dentists, podiatrists, veterinarians and other authorized persons.** Every physician, dentist, podiatrist, 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 by prescription. It shall be deemed a sufficient compliance with the provisions of this subsection if any such person using small quantities of solutions or other preparations of such drugs for local application shall keep a record of the quantity, character and potency of such solutions or other preparations purchased or made up by him, and of the dates when purchased or made up, without keeping a record of the amount of such solution or other preparation applied by him to individual patients.

Provided that no record need be kept of narcotic drugs administered, dispensed or professionally used in the treatment of any 1 patient, when the amount administered, dispensed or professionally used for that purpose does not exceed in any 48 consecutive hours:

- A. 4 grains of opium, or
- B.  $\frac{1}{2}$  of a grain of morphine or of any of its salts, or
- C. 2 grains of codeine or of any of its salts, or
- D. A quantity of any other narcotic drug or any combination of narcotic drugs that does not exceed in pharmacologic potency any one of the drugs named above in the quantity stated. (1957, c. 111, § 5; c. 304, § 18)

(1957, c. 111, § 5; c. 304, § 18.)

**Effect of amendments.**—The first 1957 amendment made subsection I applicable also to podiatrists. The second 1957 amendment deleted former paragraph D

of subsection I and changed the designation of former paragraph E of such subsection to "D".

As only subsection I was changed by the amendments, the rest of the section is not set out.

### Sec. 42. Labels.

**II.** Whenever an apothecary sells or dispenses any narcotic drug on a prescription issued by a physician, dentist, podiatrist or veterinarian, he shall affix to the container in which such drug is sold or dispensed, a label showing his own name, address and registry number, or the name, address and registry number of the apothecary for whom he is lawfully acting; the name and address of the 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, podiatrist or veterinarian 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. (R. S. c. 62, § 43. 1957, c. 111, § 6.)

**Effect of amendment.** — The 1957 amendment made subsection II applicable also to podiatrists.

As subsection I was not changed by the amendment, it is not set out.

### Sec. 43. Authorized possession of narcotic drugs by individuals.—

A person to whom or for whose use any narcotic drug has been prescribed, sold or dispensed by a physician, dentist, podiatrist, apothecary or other person authorized under the provisions of section 37, and the owner or the person having the custody or control of any animal for which any such drug has been prescribed, sold or dispensed by a veterinarian, may lawfully possess it, except when in use, only in the container in which it was delivered to him by the person selling or dispensing the same. (R. S. c. 62, § 44. 1957, c. 111, § 7.)

**Effect of amendment.** — The 1957 amendment made this section applicable also to podiatrists.

### Sec. 49. Fraud or deceit.

**IV.** No person shall, for the purpose of obtaining a narcotic drug, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, apothecary, physician, dentist, podiatrist, veterinarian or other authorized person.

(1957, c. 111, § 8.)

**Effect of amendment.** — The 1957 amendment made subsection IV applicable also to podiatrists.

As only subsection IV was changed by the amendment, the rest of the section is not set out.

**Sec. 50. Enforcement and cooperation.** — The bureau of health, the board of commissioners of the profession of pharmacy, their officers, agents, inspectors and representatives, and all peace officers within the state and all county attorneys shall enforce all provisions of sections 33 to 51, inclusive, 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. (R. S. c. 62, § 51. 1957, c. 304, § 19; c. 429, § 71.)

**Effect of amendments.**—The first 1957 amendment made subsection IV applicable to the board of pharmacy and its officers, agents, inspectors and representatives. The second 1957 amendment,

which became effective on its approval, October 31, 1957, added the words "commissioners of the profession of" after the word "of" and before the word "pharmacy" near the beginning of this section.