

MAINE STATE LEGISLATURE

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May 14, 1943

Clinton A. Clausen, Collector
Internal Revenue
Post Office Building
Augusta, Maine

Dear Sir:

In re Sale Exempt Narcotic Preparations

This will acknowledge yours of April 29, 1943
on the above subject.

Section 19, Chapter 23 of the Revised Statutes of
1930 as amended by Section 9 of Chapter 160, Public Laws of
1937, reads in part as follows:

"No person except a registered apothecary or a
physician of regular standing in his profession, shall
furnish, sell, or keep for sale any opium, morphine,
laudanum, or preparations containing opium, morphine or
derivative of opium."

Considered alone this section clearly prohibits
sale of the so called exempt narcotic preparations by anyone
except a registered apothecary or a physician "of regular
standing".

Section 22 of Chapter 23, Revised Statutes 1930
as amended by Chapter 160, Public Laws 1937 deals with sales
without prescription of certain exempt narcotic preparations.
This of itself cannot be considered as modifying section 19
as above quoted.

In Section 2, Chapter 251, Public Laws 1941, The
Uniform Narcotic Drug Act, sale by any person is declared
unlawful "except as authorized by this act". Section 8 there-
of lists the preparations exempted and does not limit sale
thereof to sales by apothecaries or physicians.

Section 22 of the same chapter repeals all acts or
parts of acts inconsistent with its provisions. Section 19 of

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Chapter 23, Revised Statutes 1930, as amended, is inconsistent in so far as exempt narcotic preparations are concerned and should be considered as repealed to the extent of the words underlined in the above quotation therefrom.

Conducting the business of an apothecary is regulated by Section 1 of Chapter 23, Revised Statutes of 1930, as amended by Chapter 160, Public Laws 1937, but its terms do not prevent the sale of exempt narcotic preparations if a patent or proprietary medicine, in original and unbroken packaged, or of a drug or medicine designated by the pharmacy commission as one which might be sold with safety to the public in towns or villages where registered apothecaries are not located, in original packages, when put up and labeled by qualified pharmacists.

Taking the broad picture into consideration, it is the opinion of this department that persons other than registered pharmacists or physicians can sell so called exempt narcotic preparations within the limitations of Section 1, Chapter 23, Revised Statutes 1930, as amended.

Very truly yours,

Frank A. Farrington
Deputy Attorney General

FAF h

*Recalled,
Board of Pharm. Comm
Called in for Conf.
Newspaper Editorial
June 23, 1943*