

# MAINE STATE LEGISLATURE

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REVISED STATUTES

OF THE

STATE OF MAINE

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FIRST ANNOTATED REVISION

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THE MICHIE COMPANY, Inc.  
CHARLOTTESVILLE, VIRGINIA

## Chapter 68.

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

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#### Commissioners of Pharmacy.

**Sec. 1. Commissioners of pharmacy, nomination and appointment; tenure; vacancies; compensation; expenses.** — A board of commissioners 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 1 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 of the business appertaining to the practice 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.

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 \$10 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.)

See § 52, re penalties; § 33, re definition of "board"; c. 18, § 31, re fees, fund for payment of "board"; c. 16, § 2, re bond of state officials; c. 18, § 31, re fees, fund for payment of expenses of board, etc.

**Sec. 2. Meetings; election of officers.** — The members of said board shall meet on the 2nd Wednesday of December in each year at such time and place as they may determine, and shall organize by electing from their number a president and a secretary, who shall hold their respective offices for the term of 1 year. The said board shall hold 3 regular meetings in each year, one on the 2nd Wednesday of December, one on the 2nd Wednesday of April and one on the 2nd Wednesday of August and such additional meetings at such times and places as they shall determine. (R. S. c. 62, § 2.)

**Sec. 3. Record of persons examined and money received; annual**

**report.**—The board shall keep a record of the names of all persons examined and registered thereunder, and a record of all moneys received and disbursed by said board, a duplicate of which record shall always be open to inspection in the office of the secretary of state. Said board shall annually in July make to the governor and council a report stating the condition of pharmacy in the state, with a full and complete record of all its official acts during the year and of the receipts and disbursements of the board to the last day of the preceding month. (R. S. c. 62, § 3.)

See c. 16, § 5, re uniform fiscal year.

**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 under oath, shall set out the offense alleged and shall be made within 60 days after the act complained of has been committed. 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.)

See c. 135, § 1, re perjury.

**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; but the certificate of registration of a registered pharmacist shall not be suspended or revoked for a cause punishable by law until after conviction by a court of competent jurisdiction. (R. S. c. 62, § 5.)

**Sec. 6. Examination and certification of apothecaries; certificates issued to persons registered in other states; certificates displayed.**—Every person not already registered, entering upon the business of an apothecary, upon the payment of a fee of \$15 to the secretary of said board, except as hereinafter provided, shall be examined by said commissioners and shall present to them satisfactory evidence that he had been an apprentice or employed in an apothecary store where physicians' prescriptions are compounded at least 4 years, or has graduated from some regularly incorporated medical college or college of pharmacy and has been employed in such an apothecary store for at least 1 year, and is competent for the business. 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 2 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, recognized by the board, 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 to make a total, together with actual time of college attendance, of at least 4 years of pharmaceutical training; and shall pass an examination by said board; provided that in all cases the actual time of attendance at a school or college of pharmacy or a department of pharmacy of a university, to be credited on the required 4 years of pharmaceutical

training, shall not exceed 3 years. 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. In case the result of the examination is unsatisfactory and no certificate is granted, the applicant shall have the right to subsequent examination or examinations at  $\frac{1}{2}$  the original fee (\$7.50) after an interval of 2 months and within 12 months after the date of his first examination. 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. Only one of the partners in a firm need be a registered pharmacist, provided the partner who compounds medicines be registered. 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. (R. S. c. 62, § 6.)

Cited in *Plaisted v. Walker*, 77 Me. 459,  
1 A. 356.

**Sec. 7. Certificates of 2 grades issued.** — Certificates of 2 grades or kinds may be issued, whereof one shall declare that the holder is skilled in pharmacy as in the preceding section and the other kind which, after the examination of the applicants therefor, may be issued to such as shall not be less than 21 years of age and who have served 3 full years in an apothecary store where physicians' prescriptions are compounded, shall declare that the holder is a qualified assistant and is qualified to take charge of the business of an apothecary during the temporary absence of the registered apothecary; and the fee for such assistant's examination shall be \$10. (R. S. c. 62, § 7.)

**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 \$2 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.)

**Sec. 9. Annual store registration; procedure; revocation.**—It shall be unlawful for any person, copartnership, association or corporation to operate, maintain, open or establish any apothecary store within this state without first having obtained a permit to do so from the board.

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 \$5, 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.

A permit shall be issued to such person, copartnership, association or corporation as said board shall deem qualified to conduct such apothecary store, on evidence satisfactory to said board:

**I.** That the apothecary store for which said permit is sought will be conducted with full compliance with the laws and with the rules and regulations of said board;

**II.** That the location and appointments of said apothecary store are such that it can be operated and maintained without endangering the public health or safety; and

**III.** That said apothecary store shall be under the personal supervision of a registered apothecary.

If the application shall be refused, the said board shall notify the applicant in writing of its decision and the reason therefor.

Permits issued under the provisions of this section shall be exposed in a conspicuous place in the apothecary store for which issued. Such permit shall not be transferable, shall expire the last day of June following the date of issue and shall be renewed annually.

The said board shall make such rules and regulations not inconsistent with the law as may be necessary to carry out the purposes and enforce the provisions of this section, and is authorized, after due notice and opportunity for hearing in the county in which the apothecary store is located, to revoke any permit when examination or inspection of the apothecary store shall disclose that such apothecary store is not being conducted according to law or is being conducted so as to endanger the public health or safety. (R. S. c. 62, § 9. 1951, c. 130, § 2.)

See c. 25, §§ 114-126, re licenses, etc., for sale of rubber goods.

### Use or Sale of Drugs and Poisons.

**Sec. 10. No registered apothecary to permit use of his name.**—No registered apothecary shall suffer or permit the use of his name or certificate of registration in the conduct of business of pharmacy when he himself is not actively engaged in such business in the store where his certificate is displayed for at least 6 hours in each business day. (R. S. c. 62, § 10.)

**Sec. 11. Employment of registered apothecary.**—Any person may enter upon the business of an apothecary without the certificate required by this chapter; provided he does not personally do the duties of an apothecary, but employs a duly registered apothecary who has sole charge of compounding, putting up and dispensing medicines, drugs, poisons and chemicals under the provisions hereof. (R. S. c. 62, § 11.)

**Sec. 12. Using drugs not named in physician's prescription.**—Whoever, engaged in the business of an apothecary, knowingly uses any drugs or ingredients in preparing or compounding a written prescription of any physician different from those named in the prescription, shall upon conviction thereof be punished by a fine of not less than \$5 nor more than \$100. (R. S. c. 62, § 12.)

**Sec. 13. Adulterating drugs and selling same.**—Whoever fraudulently adulterates, for the purpose of sale, any drug or medicine or sells any fraudulently adulterated drug or medicine, knowing the same to be adulterated, shall be punished by a fine of not more than \$400 or by imprisonment for not more than 11 months; and such adulterated drugs and medicines shall be forfeited and destroyed under the direction of the court. (R. S. c. 62, § 13.)

**Sec. 14. Business of apothecary.**—No person shall within the limits of this state conduct the business of an apothecary or any part thereof or sell or offer for sale any drugs or medicines, or display any drugs or medicines, drug

store fittings or furnishings or any sign recognized as peculiar to drug stores such as pharmacy, apothecary, drugs, drug store, druggist, druggist sundries, drug sundries, medicine, medicine store or any other word or words of similar or like import to give the appearance of an apothecary store, or claim to be or represent himself to be an apothecary, or employ or permit advertising of any character which would convey such impression, unless the same is placed and kept under the personal control and supervision of a registered apothecary; but such store may be under the charge of a qualified assistant during the temporary absence of such registered 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, rubbing 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, quinine pills, rochelle salts, senna leaves, antiseptic solution N. F., solution citrate magnesia U. S. P., sugar of milk, potassium chlorate tablets, 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.)

**Sec. 15. Sale of poisonous drugs without prescription.** — Whoever sells arsenic, arsenious acid, atropia or any of its salts, chloral hydrate, chloroform, cotton root and its fluid extract, Fowler's solution, corrosive sublimate, cyanide of potassium, Donovan's solution, ergot and its fluid extract, sugar of lead, oil of savin, oil of tansy, Parsons' vermin exterminator, phosphorus, prussic acid, rough on rats, strychnia or any of its salts, tartar emetic, tincture of aconite, tincture of belladonna, tincture of digitalis, tincture of nuxvomica, tincture of veratrum viride, crystals of carbolic acid, or a strong solution of carbolic acid, or any form of rat poison excepting red squills and its preparations, without the written prescription of a physician, shall keep a record of such sales, the name and quantity of the article sold and the name and residence of the person or persons to whom it was delivered, which record shall be made before the article was delivered and shall be open to inspection by any member of the board, or by any inland fish and game warden or by the police authorities and the officers of cities and towns. Whoever neglects to keep or refuses to show to said officers such record shall be punished by a fine of not more than \$50. Whoever sells any of the poisonous articles named in this section without the written prescription of a physician shall affix to the bottle, box or wrapper containing the article sold a label of red paper or white paper and red printing, upon which shall be printed in large letters the word "poison" and also the word "antidote" and the name and place of business of the vendor. The name of an antidote, if there be any, for the poison sold shall also be upon the label. Every neglect to affix such label to such poisonous article sold, before the delivery thereof to the purchaser, shall be punished by a fine of not more than \$50. Whoever purchases poisons as aforesaid and gives a false or fictitious name to the vendor shall be punished by a fine of not more than \$50. Nothing in this section shall be construed to apply to

wholesale dealers or to manufacturing chemists in their sales to retail trade nor to the sale of unbroken packages prepared by the manufacturers of Paris green, London purple or other poisonous preparations or compounds used for the destruction of bugs, beetles, insects, slugs, grubs, caterpillars or worms. Upon each and every package so sold shall be printed in large letters the word "poison," and the name of an antidote or antidotes if any. Every neglect to affix such label with the word "poison" thereon to such poisonous article before the delivery thereof to the purchaser shall be punished by a fine of not more than \$50. (R. S. c. 62, § 15.)

**Sec. 16. Poisons not to be deposited for killing animals.**—Whoever, for the purpose of killing wolves, foxes, dogs or other animals and not for the destruction of insects or vermin in a building, leaves or deposits in any place any arsenic, corrosive sublimate, nux vomica, strychnine, prussic acid or any other poison or poisonous substance shall be punished by a fine of not less than \$50 nor more than \$200, or by imprisonment for not less than 2 months nor more than 6 months; provided, however, that mice may be killed in orchards by the use of any poison or poisonous substance that is recommended by the U. S. Bureau of Biological Survey and used according to the recommendations of the agricultural extension service. (R. S. c. 62, § 16.)

See c. 140, § 1, re penalty for maliciously killing or injuring domestic animals.

**Sec. 17. Sale of opium.**—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. Whoever violates the provisions of this section shall be punished by a fine of not less than \$5 nor more than \$50, for each offense, to be recovered by complaint or indictment. (R. S. c. 62, § 17.)

See § 42, sub-§ II, re labels.

**Sec. 18. Manufacture of preparations containing cocaine, etc.**—No person, firm or corporation shall manufacture any so-called catarrh powder or catarrh cure, or any patent or proprietary preparation containing cocaine or any of its salts, or alpha or beta eucaine or any of their salts, or any synthetic substitute for them. (R. S. c. 62, § 18.)

See § 20, re violation of §§ 18, 19; § 21, re analysis.

**Sec. 19. Practitioners not to prescribe opium, etc., to habitual users.**—No practitioner of medicine, dentistry or veterinary medicine shall prescribe for the use of an habitual user of the same, opium, morphine, heroin, codeine or any salt or compound of the said substances, or any preparation containing any of the said substances or their salts or compounds, or cocaine or its salts, or alpha or beta eucaine or their salts, or any synthetic substitute for them, or any preparation containing the same, or any salt or compound thereof; nor shall any practitioner of dentistry prescribe any of the said substances for any person not under his treatment in the regular practice of his profession; nor shall any practitioner of veterinary medicine prescribe any of the substances for the use of a human being; provided, however, that the provisions of this section shall not be construed to prevent a lawfully authorized practitioner of medicine from prescribing for the use of any habitual user of hypnotic or narcotic drugs who is under the professional care of such practitioner, such substances as he may deem necessary for treatment, if such prescriptions are given in good faith and not for the purpose of evading the provisions of this section. (R. S. c. 62, § 19.)

See § 20, re violation of §§ 18, 19; § 21, re analysis.

**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 of the bureau of health, shall prosecute all violations of the provisions of this chapter. Trial justices shall have original and concurrent jurisdiction with municipal courts and the superior court of offenses under the provisions of the 2 preceding sections. (R. S. c. 62, § 20.)

**Sec. 21. Chemical analysis.**—The director of the Maine agricultural experiment station shall make a chemical analysis to determine the composition and quality of any substance mentioned in sections 18 and 19, on application of any county attorney, and shall furnish a certificate certifying to the composition or quality thereof. The certificate under seal of the Maine agricultural experiment station, which shall be affixed by the chemist thereof making the analysis, shall be prima facie evidence of the composition and quality of the substance analyzed. (R. S. c. 62, § 21.)

**Sec. 22. Vessels containing wood alcohol labeled.**—Whoever, by himself, his servant or agent, or as the servant or agent of any other person, sells, exchanges or delivers any wood alcohol, otherwise known as methyl alcohol, shall affix to the vessel containing the same and shall deliver therewith a label bearing the words "Wood Alcohol, Poison" in red letters of not less than  $\frac{1}{4}$  inch in height. Whoever violates the provisions of this section shall be punished by a fine of not less than \$50 nor more than \$200. (R. S. c. 62, § 22.)

**Sec. 23. Sale of articles containing wood alcohol, for internal use.**—Whoever, by himself, his servant or agent, or as the servant or agent of any other person, sells, exchanges or delivers or has in his possession with intent to sell, exchange or deliver, any article of food or drink or any drug intended for internal use, containing any wood alcohol otherwise known as methyl alcohol, shall be punished by a fine of not less than \$200 or by imprisonment for not more than 30 days, or by both such fine and imprisonment. (R. S. c. 62, § 23.)

**Sec. 24. Sale of certain drugs.**—It shall be unlawful for any person, firm or corporation to sell, furnish or give away or offer to sell, furnish or give away any veronal or barbital, or any other salts, derivatives or compounds of barbituric acid, or any registered, trade-marked or copyrighted preparation registered in the United States patent office containing the above substance, except upon the written order or prescription of a physician, surgeon, dentist or veterinary surgeon; provided, however, that the above provisions shall not apply to the sale at wholesale by drug jobbers, drug wholesalers and drug manufacturers to registered pharmacists and pharmacies registered under the provisions of section 9, nor to physicians, dentists, veterinary surgeons or hospitals, nor to each other, nor to the sale at retail in pharmacies by pharmacists to each other, nor to physicians, surgeons, dentists, veterinary surgeons or hospitals. Nothing in this section shall be construed to affect the right of a physician, surgeon, dentist or veterinary surgeon in good faith and in the legitimate practice of his profession personally to administer, prescribe or deliver any of the foregoing substances to his own patients. (R. S. c. 62, § 24.)

See § 26, re violations.

**Sec. 25. Regulations.**—The board may from time to time, by regulations, designate as potent medicinal substances, any compounds of barbituric acid which are likely to be injurious to health if improperly used, and it shall be unlawful for any person, firm or corporation to sell, furnish or give away or to offer to sell, furnish or give away any of such potent medicinal substances so designated,

except as prescribed in section 24 for the substances therein named. (R. S. c. 62, § 25.)

See § 26, re violations.

**Sec. 26. Violations.**—Whoever violates any provision of the 2 preceding sections or is found to be under the influence of any of the substances enumerated in section 24 in any street, highway or other public place shall be punished by a fine of not more than \$100 or by imprisonment for not more than 6 months, or by both such fine and imprisonment. (R. S. c. 62, § 26.)

**Sec. 27. Equipment.**—There shall be kept in every registered apothecary store a copy of the latest revision of the United States Pharmacopoeia and the latest revision of the National Formulary, modern prescription scales and weights, necessary graduates, mortars and pestles and such other equipment as the board may from time to time specify when the same has been duly promulgated by said board, also such United States Pharmacopoeia and National Formulary preparations and other commonly used chemicals, drugs and preparations sufficient to compound ordinary prescriptions as dictated by experience in the community where the apothecary store is located. (R. S. c. 62, § 27.)

**Sec. 28. Sale of drugs, etc., by medicine shows.**—It shall be unlawful for any person to sell, distribute, vend or otherwise dispose of any drug, medicine or pharmaceutical or medical preparation by means of any public exhibition, entertainment, performance or carnival commonly known as a medicine show or a patent medicine show. (R. S. c. 62, § 28.)

See c. 137, § 12, re samples of patent medicines not to be thrown or left upon doorsteps, etc.

### Use or Sale of Narcotic Drugs.

**Sec. 29. Buildings resorted to by drug users declared common nuisance; narcotic drugs, contraband; search warrants; procedure.**—Each building, place or tenement which is resorted to by habitual users of narcotic drugs for the purpose of using such drugs, or which is used for the illegal keeping or sale of the same, shall be deemed a common nuisance.

Narcotic drugs unlawfully in the possession or under the control of any person and which are kept and deposited in the state intended for unlawful sale in the state, and the vessels in which they are contained, are contraband and forfeited to the county in which they are so kept at the time when they are seized under the provisions of this chapter. In all cases where an officer may seize narcotic drugs or the vessels containing them upon a warrant, he may seize the same without a warrant and keep them in some safe place for a reasonable time until he can procure such warrant.

If any person competent to be a witness in civil suits makes sworn complaint before any judge of a municipal court or trial justice, that he believes that narcotic drugs are unlawfully kept or deposited in any place in the state by any person, or that the same are intended for sale within the state in violation of law, such magistrate shall issue his warrant directed to any officer having power to serve criminal process, commanding him to search the premises described and specially designated in such complaint and warrant, and if said narcotic drugs are there found, to seize the same with the vessels in which they are contained, and them safely keep until final action thereon, and make immediate return of said warrant. The name of the person so keeping said drugs as aforesaid, if known to the complainant, shall be stated in such complaint, and the officer shall be commanded by said warrant, if he finds said drugs, to arrest said person and hold him to answer as having in possession said drugs as aforesaid. Any person who may be suspected of unlawfully having in his possession, or selling from, or

keeping for illegal sale in his pockets, narcotic drugs, may be searched in the same manner and by the same process as is provided for the search of places and, if drugs are found upon his person, may be held to answer as though such drugs were kept and deposited by him in any place. If narcotic drugs are in any manner destroyed by the tenant, assistant or other person, when premises are about to be searched, manifestly for the purpose of preventing their seizure by officers authorized to make such search and seizure, such drugs may be held to have been unlawfully in possession and the penalties shall be the same as if said drugs had been seized. If the name of the person keeping such drugs is unknown to the complainant, he shall so allege in his complaint, and the magistrate shall thereupon issue his warrant as provided in the 1st sentence of this paragraph. If upon trial, the court is of the opinion that the drug was possessed as aforesaid or intended for unlawful sale by the person named in said complaint, or by any other person with his knowledge or consent, he shall be found guilty thereof, and shall be punished by a fine of not less than \$100 nor more than \$500, and costs, and in addition thereto by imprisonment for not less than 2 months nor more than 6 months, and in default of payment of said fine and costs he shall be imprisoned 6 months additional. (R. S. c. 62, § 30.)

See § 45, re common nuisances; c. 141, §  
I. re common nuisances.

**Sec. 30. Dwelling houses searched.**—No warrant shall be issued to search a dwelling house occupied as such, unless it or some part of it is used as an inn or shop, or for purposes of traffic, or unless the magistrate before whom the complaint is made is satisfied by evidence presented to him and so alleges in said warrant, that narcotic drugs are kept in such house or its appurtenances in the manner or for the purposes aforesaid, in violation of law. (R. S. c. 62, § 31.)

**Sec. 31. Forms provided in intoxicating liquor cases made applicable.**—The forms set forth in section 97 of chapter 61, when changed by substituting the words “narcotic drugs” for the words “intoxicating liquors,” wherever found in the same, together with such other changes therein as further adapt them for use under the provisions of this chapter, and with such additional changes as adapt them for use in cities, towns and plantations, are sufficient in law, for all cases arising under the provisions of sections 29 to 32, inclusive, to which they purport to be adapted. (R. S. c. 62, § 32.)

**Sec. 32. “Narcotic drugs” defined.**—As used in sections 29, 30 and 31 the term “narcotic drugs” shall mean opium, morphine, heroin, codeine, cannabis indica, cannabis sativa or the salts, compounds or preparations of said substances, cocaine, alpha or beta eucaine, or any synthetic substitute for them, or any preparation containing the same or any salts or compounds thereof. (R. S. c. 62, § 33.)

See § 33, sub-§ XIV, re definition of  
“narcotic drugs”.

**Sec. 33. Definitions.**—The following words and phrases, as used in this chapter, shall have the following meanings, unless the context otherwise requires:

**I.** “Apothecary” or “pharmacist” means a licensed pharmacist as defined by the laws of this state who prepares, dispenses or sells drugs or medicines and authorized by the board to conduct the business of apothecary and, where the context so requires, the owner of a store or other place of business where narcotic drugs are compounded or dispensed by a licensed pharmacist; but nothing in this chapter shall be construed as conferring on a person, who is not registered nor licensed as a pharmacist, any authority, right or privilege that is not granted to him by the pharmacy laws of this state.

**II.** “Apothecary store” means a place registered by the board where drugs,

chemicals, medicines, prescriptions or poisons are compounded, dispensed or sold.

**III.** "Board" means Maine board of commissioners of pharmacy.

**IV.** "Cannabis" includes all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such 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, fibre produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks, except the resin extracted therefrom, fibre, oil or cake, or the sterilized seed of such plant which is incapable of germination.

**V.** "Coca 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, ecgonine or substances from which cocaine or ecgonine may be synthesized or made.

**VI.** "Commission" means Maine board of commissioners of pharmacy.

**VII.** "Dentist" means a person authorized by law to practice dentistry in this state.

**VIII.** "Dispense" includes distribute, leave with, give away, dispose of or deliver.

**IX.** "Federal narcotic laws" means the laws of the United States relating to opium, coca leaves and other narcotic drugs.

**X.** "Hospital" means an institution for the care and treatment of the sick and injured, approved by the bureau of health 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.

**XI.** "Laboratory" means a laboratory approved by the bureau of health 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.

**XII.** "Manufacturer" means a person who by compounding, mixing, cultivating, growing or other process, produces or prepares narcotic drugs, but does not include an apothecary who compounds narcotic drugs to be sold or dispensed on prescriptions.

**XIII.** "Medicine" means a drug or preparation of drugs for use as a curative or remedial substance.

**XIV.** "Narcotic drugs" means coca leaves, cannabis, opium and every substance neither chemically nor physically distinguishable from them.

**XV.** "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 provision 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 bureau of health.

**XVI.** "Opium" includes morphine, codeine and heroin and any compound, manufacture, salt, derivative, mixture or preparation of opium, but does not include apomorphine or any of its salts.

**XVII.** "Person" includes any corporation, association, copartnership or one or more individuals.

**XVIII.** "Pharmacy" means the place registered by the board in which drugs,

chemicals, medicines, prescriptions or poisons are compounded, dispensed or sold.

**XIX.** "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 this state and to use narcotic drugs in connection with such treatment.

**XX.** "Poison" means any drug, chemical or preparation liable to be destructive to human life in quantities of 60 grains or less.

**XXI.** "Proprietary medicine" means remedies that certain individuals, firms, associations or corporations have the exclusive right to manufacture or sell.

**XXII.** "Registry number" means the number assigned to each person registered under the federal narcotic laws.

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

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

**XXV.** "Supervision" means under the direct charge or direction and does not contemplate any continued absence of such supervision.

**XXVI.** "Veterinarian" means a person authorized by law to practice veterinary medicine in this state.

**XXVII.** "Wholesaler" means a person who supplies narcotic drugs that he himself has not produced nor prepared, on official written orders, but not on prescriptions. (R. S. c. 62, § 34.)

**Sec. 34. Uses of narcotic drugs.**—It shall be unlawful for any person to manufacture, possess, have under his control, sell, prescribe, administer, dispense or compound any narcotic drug, except as authorized in this chapter. (R. S. c. 62, § 35.)

See § 51, re penalty.

**Sec. 35. Licenses for manufacturers and wholesalers of narcotic drugs.**—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 to do so from the state bureau of health. (R. S. c. 62, § 36.)

See 42, sub-§ I, re labels on packages; § 51, re penalty.

**Sec. 36. Qualification for licenses.**—No license shall be issued under the provisions of the foregoing section unless and until the applicant therefor has furnished proof satisfactory to the bureau of health:

**I.** 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.

**II.** That the applicant is equipped as to land, buildings and paraphernalia properly to carry on the business described in his application.

No license shall be granted to any person who has within 5 years been convicted of a willful 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.

The bureau of health may suspend or revoke any license for cause. (R. S. c. 62, § 37.)

See § 51, re penalty.

**Sec. 37. Sale on written orders; orders; possession.—**

**I.** 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 apothecary.

**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.

**D.** To a person in charge of a laboratory, but only for use in that laboratory for scientific and medical purposes.

**II.** 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, or to a physician or surgeon duly licensed in some state, territory or the District of Columbia to practice his profession, or to a retired commissioned medical officer of the United States army, navy or public health service employed upon such ship or aircraft, for the actual medical needs of persons on board such ship or aircraft, when not in port; provided such narcotic drugs shall be sold to the master of such ship or person in charge of such aircraft or to a physician, surgeon or retired commissioned medical officer of the United States army, navy or public health service employed upon such ship or 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.

**III.** 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. The original shall be presented to the person who sells or dispenses the narcotic drug or drugs 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 2 years in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of the provisions of this chapter. It shall be deemed a compliance with the provisions of this subsection if the parties to the transaction have complied with the federal narcotic laws respecting the requirements governing the use of order forms.

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

**V.** 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, or a master of a ship or a person in charge of any aircraft upon which no physician is regularly employed, or a physician or surgeon duly licensed in some state, territory or the District of Columbia to practice his profession, or a retired commissioned medical officer of the United States army, navy or public health service employed upon such 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 within the scope

of his employment or official duty, and then only for scientific or medicinal purposes and subject to the provisions of this chapter. (R. S. c. 62, § 38.)  
See § 51, re penalty.

**Sec. 38. Sales by apothecaries.—**

**I.** An apothecary, in good faith, may sell and dispense narcotic drugs to any person upon a written prescription of a physician, dentist 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.

**II.** 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 or apothecary, but only on an official written order.

**III.** An apothecary, only upon an official written order, may sell to a physician, dentist or veterinarian, in quantities not exceeding 1 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. (R. S. c. 62, § 39.)

See § 51, re penalty.

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

**I. Physicians and dentists.** A physician or a dentist, 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.

**II. Veterinarians.** A veterinarian, in good faith and in the course of his professional practice only, and not for use by a human being, may prescribe, administer, and dispense narcotic drugs, and he may cause them to be administered by an assistant or orderly under his direction and supervision.

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

See § 51, re penalty.

**Sec. 40. Preparations exempted.—**Except as otherwise in this chapter specifically provided, the provisions of this chapter shall not apply to the following cases:

**I.** Prescribing, administering, dispensing or selling at retail of any medicinal preparation that contains in 1 fluid ounce, or if a solid or semisolid preparation, in 1 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 1 grain of codeine or of any of its salts,

**D.** Not more than  $\frac{1}{8}$  of a grain of heroin or of any of its salts, and

**E.** Not more than one of the drugs named above in paragraphs A, B, C and D.

**II.** 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 the provisions of sections 33 to 51, inclusive, shall apply to all liniments, ointments and other preparations that contain coca leaves in any quantity or combination.

The exemptions authorized by the provisions of this section shall be subject to the following conditions:

**A.** No person shall prescribe, administer, dispense or sell under the exemptions of this section to any 1 person, or for the use of any 1 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 more than  $\frac{1}{4}$  of a grain of heroin or of any of its salts, or will provide such person or the owner of such animal, within 48 consecutive hours, with more than 1 preparation exempted from the provisions of this chapter.

**B.** The medicinal preparation or the liniment, ointment or other preparation 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. Such preparation shall be prescribed, administered, dispensed and sold in good faith as a medicine and not for the purpose of evading the provisions of this chapter.

Nothing in the provisions of this section shall be construed to limit the kind and quantity of any narcotic drug that may be prescribed, administered, dispensed or sold to any person or for the use of any person or animal when it is prescribed, administered, dispensed or sold, in compliance with the general provisions of this chapter. (R. S. c. 62, § 41.)

See § 49, sub-§ VII, re procuring of narcotic drugs by fraud or deceit; § 51, re penalty.

#### **Sec. 41. Record kept.—**

##### **I. Physicians, dentists, veterinarians and other authorized persons.**

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 by prescription. It shall, however, 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, dis-



pensed 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.**  $\frac{1}{4}$  of a grain of heroin or of any of its salts, or

**E.** 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.

**II. Manufacturers and wholesalers.** 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 V.

**III. Apothecaries.** Apothecaries shall keep records of all narcotic drugs received and disposed of by them in accordance with the provisions of subsection V.

**IV. Vendors of exempted preparations.** Every person who purchases for resale, or who sells narcotic drug preparations exempted by the provisions of section 40, shall keep a record showing the quantities and kinds thereof received and sold, or disposed of otherwise in accordance with the provisions of subsection V.

**V. Form and preservation of records.** The form of records shall be prescribed by the bureau of health. 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 ecgonine contained in or producible from crude opium or coca leaves received or produced and the proportion of resin contained in or producible from the plant, *Cannabis sativa* L. The record of all narcotic drugs sold, administered, dispensed or otherwise disposed of shall show the date of selling, administering 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 or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of 2 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 the provisions of this section, except that every such 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. (R. S. c. 62, § 42.)

See § 51, re penalty.

#### **Sec. 42. Labels.—**

**I.** 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 an apothecary for the purpose of filling a prescription under the provisions of this chapter, shall alter, deface or remove any label so affixed.

**II.** Whenever an apothecary sells or dispenses any narcotic drug on a prescription issued by a physician, dentist 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 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.)

See § 51, re penalty.

**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, 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.)

See § 51, re penalty.

**Sec. 44. Persons and corporations exempted.—**The provisions of this chapter restricting the possession 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. (R. S. c. 62, § 45.)

See § 51, re penalty.

**Sec. 45. 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. (R. S. c. 62, § 46.)

See § 29, re buildings resorted to by drug users declared common nuisance; § 51, re penalty; c. 141, § 1, re common nuisances.

**Sec. 46. Forfeited 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:

**I.** Except as in this section otherwise provided, the court or magistrate having jurisdiction 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.

**II.** Upon written application by the bureau of health, the court or magistrate by whom the forfeiture of narcotic drugs has been decreed may order the de-

livery of any of them, except heroin and its salts and derivatives, to said bureau of health for distribution or destruction as hereinafter provided.

**III.** Upon application by any hospital within this state, not operated for private gain, the bureau of health may in its discretion deliver any narcotic drugs that have come into its custody by authority of this section to the applicant for medicinal use. The bureau of health may from time to time deliver excess stocks of such narcotic drugs to the United States commissioner of narcotics or may destroy the same.

**IV.** The bureau of health 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. (R. S. c. 62, § 47.)

See § 51, re penalty.

**Sec. 47. Notice of conviction sent to licensing board.**—On the conviction of any person of the violation of any provision of sections 33 to 51, inclusive, 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 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. 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. (R. S. c. 62, § 48.)

See § 51, re penalty.

**Sec. 48. Records, confidential.** — Prescriptions, orders and records required by sections 33 to 51, inclusive, 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 record shall divulge such knowledge, except in connection with a prosecution or proceeding 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. (R. S. c. 62, § 49.)

See § 51, re penalty.

**Sec. 49. Fraud or deceit.**—

**I.** 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 the forgery or alteration of a prescription or of any written order; or

**C.** By the concealment of a material fact; or

**D.** By the use of a false name or the giving of a false address.

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

**III.** No person shall willfully make a false statement in any prescription, order, report or record required by sections 33 to 51, inclusive.

**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, veterinarian or other authorized person.

**V.** No person shall make or utter any false or forged prescription or false or forged written order.

**VI.** No person shall affix any false or forged label to a package or receptacle containing narcotic drugs.

**VII.** The provisions of this section shall apply to all transactions relating to narcotic drugs under the provisions of section 40, in the same way as they apply to transactions under the provisions of all other sections of this chapter. (R. S. c. 62, § 50.)

See § 51, re penalty.

**Sec. 50. Enforcement and cooperation.** — The bureau of health, its 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.)

See § 51, re penalty.

#### Penalties.

**Sec. 51. Violation of provisions of §§ 33 to 51.** — Whoever violates any provision of sections 33 to 51, inclusive, shall upon conviction be punished by a fine of not more than \$1,000 and by imprisonment for not less than 2 nor more than 5 years. For a 2nd offense, or if, in case of a 1st conviction of violation of any provision of sections 33 to 51, inclusive, the offender shall previously have been convicted of any violation of the laws of the United States or of any other state, territory or district relating to narcotic drugs or marihuana, the offender shall be punished by a fine of not more than \$1,000 and by imprisonment for not less than 5 nor more than 10 years. For a 3rd or subsequent offense, or if the offender shall previously have been convicted 2 or more times in the aggregate of any violation of the laws of the United States or of any other state, territory or district relating to narcotic drugs or marihuana, the offender shall be punished by a fine of not more than \$1,000 and by imprisonment for not less than 10 nor more than 20 years.

Except in the case of conviction for a 1st offense for violation of the provisions of sections 33 to 51, inclusive, the imposition or execution of sentence shall not be suspended and probation or parole shall not be granted until the minimum imprisonment herein provided for the offense shall have been served. (R. S. c. 62, § 52, 1953, c. 85.)

**Sec. 52. Violation of provisions of chapter; disposal of fines and forfeitures.**—Unless otherwise provided for, the violation of any provision of this chapter shall constitute a misdemeanor and any person convicted of such violation shall be subject to a fine of not more than \$100. The violation of each section of this chapter shall constitute a separate offense. All fees, fines and forfeitures collected under the provisions of this chapter shall be paid to the treasurer of state and shall be considered funds of the board, to be by them expended for the enforcement of laws relating to apothecaries and the sale of poisons and for expenses incurred in their official work. (R. S. c. 62, § 29.)

See c. 18, § 31, re fees, fund for payment of expenses of board, etc.