

their contribution to the overall pollution problem; (b) whether or not it would be desirable and possible to allow certain municipalities to retain their open dumps; (c) what alternative means of refuse disposal are available to the local communities and what the costs of conversion, operation and maintenance would be; (d) what state aid could be made available to the towns and cities to aid them in converting to other means of refuse disposal; and (e) any other subject the commission deems relevant to the problems.

**420:3 Report and Recommendations.** The commission shall report its findings and recommendations to the 1971 session of the general court.

**420:4 Appropriation.** The sum of five hundred dollars is appropriated for the purposes of this act. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

**420:5 Effective Date.** This act shall take effect sixty days after its passage.

[Approved July 2, 1969.]

[Effective date August 31, 1969.]

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## CHAPTER 421.

### AN ACT ENACTING THE CONTROLLED DRUG ACT.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

**421:1 New Chapter.** Amend RSA by inserting after chapter 318-A the following new chapter:

### Chapter 318-B Controlled Drug Act

**318-B:1 Definitions.** The following words and phrases, as used in this chapter, shall have the following meanings, unless the context otherwise requires:

I. "Abuse of drugs" means the use of controlled drugs solely for their stimulant, depressant or hallucinogenic effect upon the higher functions of the central nervous system and not as a therapeutic agent recommended by a practitioner in the course of medical treatment or in a program of research operated under the direction of a physician, pharmacologist, physiologist or chemist.

II. "Amphetamine-type drugs" means amphetamine, optical isomers thereof, salts of amphetamine and its isomers, and chemical compounds which are similar thereto in physiological effect, and which show a like potential for abuse;

III. "Barbiturate-type drugs" means barbituric acid and its salts, derivatives thereof and chemical compounds which are similar thereto in physiological effect, and which show a like potential for abuse;

IV. "Cannabis-type drugs" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such a plant; and every compound manufacture, salt, derivative, mixture or preparation of such plant, its seeds or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks, except the resin extracted therefrom, fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination. Included are cannabion, cannabiniol and chemical compounds which are similar to cannabion or cannabiniol in physiological effect, and which show a like potential for abuse;

V. "Cocaine-type drugs" means coca leaves, cocaine, ecgonine, and chemical compounds which are similar thereto in chemical structure or which are similar thereto in physiological effect, and which show a like potential for abuse;

VI. "Controlled drugs" are those drugs and chemicals which contain any quantity of a substance which has been designated as subject to federal narcotic laws, or which has been designated as a depressant or stimulant drug pursuant to federal food and drug laws, or which has been by regulation, after investigation and hearing designated by the division of public health services as having a stimulant, depressant or hallucinogenic effect upon the higher functions of the central nervous system and as having a potential for abuse or physiological and psychological dependence, or both. The division of public health services shall give due notice of the time, place and purpose of all hearings required under this chapter to podiatrists, osteopaths, hospitals, pharmacists, physicians, dentists, veterinarians, laboratories, registered manufacturers, suppliers and to the general public by such means as it shall deem adequate. From and after the hearing date, the sale or dispensations (except by prescription) of a drug or chemical containing any quantity of such substance as is the subject matter of the hearing shall be suspended pending a determination as to whether such substance is to be designated as a controlled drug. Designation as a controlled drug shall result in the continued suspension of the sale or dispensation (except by prescription) of any drug or chemical containing any quantity of such substance until the effective date of the designation after publication. The substance shall thereafter be a controlled drug subject to this chapter. In the event any substance is so designated, the division shall publish the designation in a newspaper of general circulation in the state once each week for three successive weeks. The designation shall be effective and any drug or chemical containing any quantity of such substance shall be a controlled drug seven days after the date of the last publication of said designation. Controlled drugs are classifiable as amphetamine-type, barbiturate-type, cannabis-type, cocaine, type, hallucinogenic, morphine-type and other stimulant and depressant drugs. Specifically excluded from controlled drugs are alcohol, nicotine and caffeine;

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

VIII. "Dispense" means distribute, leave with, give away, dispose of or deliver;

IX. "Drug dependence" means a state of physical addiction or psychic dependence, or both, upon a drug following use of that drug upon a repeated periodic or continuous basis except:

(a) Upon a morphine-type drug as an incident to current medical treatment of a demonstrable physical disorder, other than produced by the use of the drug itself, or

(b) Upon amphetamine-type, ataractic, barbiturate-type, hallucinogenic or other stimulant and depressant drugs as an incident to current medical treatment of a demonstrable physical or psychological disorder, or both, other than produced by the drug itself;

X. "Drug-dependent person" means any person who has developed a state of psychic or physical dependence, or both, upon a controlled drug following administration of that drug upon a repeated periodic or continuous basis. No person shall be classified as drug dependent who is dependent:

(a) Upon a morphine-type drug as an incident to current medical treatment of a demonstrable physical disorder other than drug dependence, or

(b) Upon amphetamine-type, ataractic, barbiturate-type, hallucinogenic or other stimulant and depressant drugs as an incident to current medical treatment of a demonstrable physical or psychological disorder, or both, other than drug dependence;

XI. "Federal food and drug laws" means the federal food, drug and cosmetic act, as amended, Title 21 USC 301 et seq.;

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

XIII. "Hallucinogenic drugs" are psychodysleptic drugs which assert a confusional or disorganized effect upon mental processes or behavior and mimic acute psychotic disturbances. Exemplary of such drugs are mescaline, peyote, psilocybin and d-lysergic acid diethylamide;

XIV. "Laboratory" means a scientific or medical establishment entrusted with the custody of controlled drugs and the use of controlled drugs for scientific and medical purposes and for purposes of instruction, research or analysis;

XV. "Manufacturer" means a person who, by compounding, mixing, cultivating, growing or other process, produces or prepares controlled drugs, but shall not mean a pharmacist who compounds controlled drugs to be sold or dispensed on prescriptions;

XVI. "Morphine-type drugs" means morphine and chemical compounds which are similar thereto in physiological effect, and which show a like potential for abuse.

XVII. "Narcotic drugs" means cocaine-type and porphine-type drugs, and drugs other than cannabis-type regulated under the federal narcotic laws;

XVIII. "Nurse" means a person licensed to perform nursing as defined in RSA 326-A;

XIX. "Official written order" means an order written on a form provided for that purpose by the United States commissioner of narcotics under the laws of the United States making provision therefor, if such order forms are authorized and required by federal law, or conforming to the requirements of such a form and provided by the division of public health, or if no such order form is provided, on an official form provided for that purpose by the division of public health;

XX. "Other stimulant and depressant drugs" means controlled drugs other than amphetamine-type, barbiturate-type, cannabis-type, cocaine-type, hallucinogenics and morphine-type which are found to exert a stimulant and depressant effect upon the higher functions of a central nervous system and which are found to have a potential for abuse;

XXI. "Person" means any corporation, association or partnership, or one or more individuals;

XXII. "Pharmacist" means a person authorized by law to practice pharmacy pursuant to RSA 318;

XXIII. "Pharmacy" means an establishment licensed pursuant to RSA 318;

XXIV. "Physician" means a person authorized by law to practice medicine in this state pursuant to RSA 329;

XXV. "Potential for abuse" means that there is a likelihood that a drug will be used solely for its stimulant, depressant or hallucinogenic effect upon the higher functions of the central nervous system as distinguished from use recommended by a practitioner as a therapeutic agent in a course of medical treatment or in a program of research operated under the direction of a physician or pharmacologist;

XXVI. "Practitioner" means any person who is lawfully entitled to prescribe, administer, dispense or distribute controlled drugs to patients;

XXVII. "Prescribe" means order or designate a remedy or any preparation containing controlled drugs;

XXVIII. "Prescription" means a written or oral order for any controlled drug or preparation from a licensed practitioner to a pharmacist for a patient.

XXIX. "Registry number" means the number assigned to each person registered under the federal narcotic laws;

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

XXXI. "State food, drug and cosmetic laws" means RSA 146;

XXXII. "Veterinarian" means a person authorized by law to practice veterinary medicine in this state pursuant to RSA 332;

XXXIII. "Wholesaler" means a person who supplies controlled drugs

that he himself has not produced or prepared to hospitals, practitioners, pharmacies, other wholesalers, manufacturers and federal, state and municipal agencies. Words importing the plural number may include the singular; words importing the masculine gender may be applied to females.

**318-B:2 Acts Prohibited.** It shall be unlawful for any person to manufacture, possess, have under his control, sell, purchase, prescribe, administer, dispense, or compound any controlled drug, or any preparation containing a controlled drug, except as authorized in this chapter.

**318-B:3 Licensing of Manufacturers and Wholesalers Required.** No person shall manufacture controlled drugs, and no person as a wholesaler shall supply the same, without having first obtained a license to do so from the division of public health services of the department of health and welfare.

**318-B:4 Licenses.**

I. Fee. The fee for such license shall be ten dollars per year payable annually to the division of public health services on or before January 1.

II. Qualification. No license shall be issued under section 3 unless and until the applicant therefor has furnished proof satisfactory to the division of public health services:

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

(b) that the applicant is equipped as to land, buildings, and equipment properly to carry on the business described in his application.

III. Prohibition. No license shall be granted to any person who has within five years been convicted of a violation of any law of the United States, or of any state, relating to controlled drugs, as defined in this chapter, or to any person who is a drug-dependent person.

IV. Revocation. Any license may be suspended or revoked by the division of public health services after due notice and opportunity for hearing if the licensee:

(a) has been convicted of violating or conspiring to violate any law of the United States or of any state where the offense involves any activity or transaction with respect to controlled drugs; or

(b) has violated or failed to comply with any duly promulgated regulation of the division of public health services and such violation or failure to comply reflects adversely on the licensee's reliability and integrity with respect to controlled drugs.

**318-B:5 Sale by Manufacturer or Wholesaler.** A duly licensed manufacturer or wholesaler may sell and dispense controlled drugs only to any of the following persons, and only on official written orders:

I. To a manufacturer, wholesaler, or pharmacist,

II. To a practitioner,

III. To that person in each hospital designated as in charge of controlled drugs but only for use by or in that hospital,

IV. To that person in each laboratory designated as in charge of controlled drugs but only for use in that laboratory for scientific and medical purposes.

V. 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 controlled drugs by reason of his official duties, upon an exempt official order form as required by federal narcotics laws.

VI. 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 controlled 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,

VII. To a person in a foreign country if the provisions of the federal narcotics laws are complied with.

**318-B:6 Possession Lawful.** Possession of or control of controlled drugs obtained as authorized by section 5 shall be lawful if in the regular course of business, occupation, profession, employment, or duty of the possessor.

**318-B:7 Written Orders.** An official written order for any controlled narcotic drug shall be signed in triplicate 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 controlled 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 two years in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this act. It shall be deemed a compliance with this section if the parties to the transaction have complied with the federal narcotic laws or the federal food and drug laws, respecting the requirements governing the use of order forms.

**318-B:8 Limitation on Use.** A person in charge of controlled drugs in 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 controlled drugs under the provisions of section 5 or otherwise, shall not administer, nor dispense, nor otherwise use such drugs, within the state, except within the scope of his employment or official duty, and then only for scientific or medical purposes and subject to the provisions of this chapter.

**318-B:9 Sale by Pharmacists.**

I. On Prescription. Any person in good faith, may sell controlled drugs exempt under federal narcotic laws or federal food and drug laws not requiring a prescription and a pharmacist may sell and dispense controlled drugs requiring prescriptions to any person upon the written prescription of a practitioner, provided it is properly executed, dated and signed by the person prescribing on the day when issued and bears the full name and address of the patient for whom or of the owner of the animal for which, the drug is dispensed, or upon oral prescription, in pursuance of regulations promulgated by the secretary of the treasury of the United States, or his delegate, under the provisions of federal narcotic laws, where applicable, provided said oral prescription is promptly reduced to writing by the pharmacist, stating the name of the practitioner so prescribing, the date, the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and in all instances, the full name, address and registry number under the federal narcotic laws or federal food and drug laws of the person so 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. A 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 two years so as to be readily accessible for the inspection of any officers engaged in the enforcement of this chapter. The prescription as to a narcotic controlled drug shall not be refilled.

II. On Written Order. The legal owner of any stock of controlled drugs in a pharmacy, upon discontinuance of dealing in said drugs, may sell said stock to a manufacturer, wholesaler, pharmacist or pharmacy owner but only upon an official written order, and in accordance with the federal narcotic laws and regulations where applicable. A pharmacist only upon an official written order, may sell to a practitioner in quantities not exceeding one ounce at any one time, aqueous or oleaginous solutions compounded by him of which the content of controlled drugs does not exceed a proportion greater than twenty per centum of the complete solution, to be used for medical purposes.

**318-B:10 Professional Use of Narcotic Drugs.**

I. Practitioners Other Than Veterinarians. A practitioner other than a veterinarian, in good faith and in the course of his professional practice only, may prescribe, administer, and dispense controlled drugs, or he may cause the same to be administered by a nurse or intern 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 controlled 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 practitioner other than a pharmacist any controlled drug for administra-

tion to a patient during the absence of said practitioner, shall return to such practitioner any unused portion of such drug, when it is no longer required by the patient.

### **318-B:11 Preparations Exempted.**

I. Not Dependence Forming or of Sustaining Character. The division of public health services may by regulation exempt from the application of this chapter to such extent as it determines to be consistent with the public welfare, pharmaceutical preparations found by the division of public health services after due notice and hearing:

(a) Either to possess no physiological or psychological dependence forming or sustaining character, or to possess physiological or psychological dependence forming or sustaining character not sufficient to warrant imposition of all the requirements of this chapter, and,

(b) Not to permit recovery of the minute quantity of a controlled drug from the pharmaceutical preparation having such a physiological or psychological dependence forming or sustaining character, with such relative technical chemical separation simplicity and degree of quantitative yield as to create a risk of improper use.

II. Exempt Under Federal Law. In exercising the authority granted in paragraph I. the division of public health services, by regulation and without special findings may grant exempt status to such pharmaceutical preparations as are or may be determined to be exempt under the federal narcotic laws and regulations and permit the administering, dispensing, or selling of such preparations under the same conditions as permitted by the federal narcotic laws and regulations and the federal food and drug laws and regulations.

III. Revocation. If the division of public health services shall find after due notice and a hearing, as required by section 1 (VI) of this chapter, that any exempt pharmaceutical preparation does possess a degree of physiological or psychological dependence character that results in material abusive use, it shall by designation publish once each week for three successive weeks, the findings in a newspaper of general circulation in the state. The findings shall be effective, and the exempt status shall cease to apply to such pharmaceutical preparation seven days after the date of the publication of the findings. The suspension procedure specified in section 1 (VI) of this chapter shall also apply to such exempt preparation after the hearing date.

**318-B:12 Records to be Kept.** Practitioners, manufacturers, wholesalers, pharmacists, hospitals and laboratories shall keep such records as may be required by the division of public health services or by the federal narcotic laws and regulations and the federal food and drug laws and regulations relating to receipt, manufacture, inventory, distribution (including dispensing, sale or other disposition) and information as to controlled drugs stolen, lost or destroyed.

### **318-B:13 Labels.**

I. Manufacturer or Wholesaler. Whenever a manufacturer sells or dispenses a controlled drug, and whenever a wholesaler sells or dispenses a

controlled drug in a package prepared by him, he shall securely affix to each package in which the drug is contained a label showing in legible english the name and address of the vendor and the quantity, kind, and form of controlled drug contained therein. If any controlled drug is determined by regulation of the division of public health services as being habit forming, the container label shall show clearly the statement "Warning — May be Habit Forming". No person, except a pharmacist for the purpose of filling a prescription under this chapter shall alter, deface, or remove any label so affixed.

II. Pharmacist. Whenever a pharmacist sells or dispenses any controlled drug on a prescription issued by a practitioner, 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 pharmacist 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 practitioner 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.

**318-B:14 Authorized Possession of Controlled Drugs by Individuals.** An individual to whom or for whose use any controlled drug has been prescribed, sold, or dispensed, by a practitioner or pharmacist, or other person authorized under the provision of sections 5 or 8, and the owner of any animal for which any such drug has been prescribed, sold or dispensed by a veterinarian, may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing the same.

**318-B:15 Persons and Corporations Exempted.** The provisions of this chapter restricting the possession and having control of controlled drugs shall not apply to common carriers or to warehousemen, while engaged in lawfully transporting or storing such drugs, or to an 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 controlled drugs; or to temporary incidental possession by employees or agents or persons lawfully entitled to possession, or by persons whose possession is for the purpose of aiding public officers in performing their official duties.

**318-B:16 Common Nuisances.** Any store, shop, warehouse, dwelling-house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by drug-dependent persons for the purpose of using controlled drugs or which is used for the illegal keeping or selling of the same, shall be deemed a common nuisance. No person shall knowingly keep or maintain such a common nuisance.

**318-B:17 Disposal of Controlled Drugs in Possession of Peace Officer.** All controlled 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. Forfeited or Destroyed. Except as in this section, otherwise provided, the superior court shall order such controlled 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 superior court and to the United States commissioner of narcotics, if narcotic controlled drugs are involved, by the officer who destroys them.

II. Delivery to Division of Public Health Services. Upon written application by the state division of public health services the superior court may order the delivery of any of them, except heroin and its salts and derivatives, to said state division of public health services for distribution or destruction, as hereinafter provided.

(a) Upon application by any hospital within this state, not operated for private gain, the state division of public health services may in its discretion deliver any controlled drugs that have come into its custody by authority of this section to the applicant for medical use. The state division of public health services may from time to time deliver excess stocks of such controlled drugs to the United States commissioner of narcotics, or to the New Hampshire hospital, or may destroy the same.

III. Records Required. The state division of public health services 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, or 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 controlled drug laws.

**318-B:18 Notice of Conviction to be Sent to Licensing Board.** On the conviction of any person of the violation of any provision of this chapter, a copy of the judgment and sentence, and of the opinion of the superior court, if any opinion be filed, shall be sent by the clerk of the court, 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 board or officer 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.

**318-B:19 Records, Confidential.** Prescriptions, orders and records, required hereby, and stocks of controlled drugs, shall be open for inspection only to federal, state, county, and municipal officers, whose duty is to enforce the laws of this state or of the United States relating to controlled 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.

**318-B:20 Prohibited Acts.**

I. **Fraud or Deceit.** No person shall obtain or attempt to obtain a controlled drug, or procure or attempt to procure the administration of a controlled 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. **False Statements.** No person shall wilfully make a false statement in any prescription, order, report, or record, required hereby.

III. **Assuming False Title.** No person shall, for the purpose of obtaining a controlled drug falsely assume the title of, or represent himself to be a manufacturer, wholesaler, pharmacist, practitioner, or other authorized person.

IV. **False or Forged Prescriptions or Orders.** No person shall make or utter any false or forged prescription or false or forged written order.

V. **False or Forged Labels.** No person shall affix any false or forged label to a package or receptacle containing controlled drugs.

VI. **Application of Section.** The provisions of this section shall apply to all transactions relating to controlled drugs, or to preparations containing a controlled drug, under the provisions of section 11 of this chapter, in the same way as they apply to transactions under all other sections.

**318-B:21 Certain Communications Not Privileged.** Information communicated to a physician in an effort unlawfully to procure a controlled drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

**318-B:22 Exceptions and Exemptions Not Required to be Negated.** In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of this chapter, it shall not be necessary to negate any exception, excuse, proviso, or exemption, contained herein, and the burden of proof of any such exception, excuse, proviso or exemption, shall be upon the defendant.

**318-B:23 Enforcement and Cooperation.** It is hereby made the duty of the division of public health services, its officers, agents, inspectors, and representatives, and of all peace officers within the state, and of all county attorneys, to enforce all provisions of this chapter, except those specifically delegated, and to 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 controlled drugs.

**318-B:24 Rules and Regulations.** Authority is hereby granted to the division of public health services to promulgate rules and regulations for the efficient enforcement of this chapter and said division of the public health services is hereby required to make such regulations under this chapter to conform with those promulgated by the secretary of the treasury of the United States, his delegate, the secretary of health, education, and wel-

fare, or the United States commissioner of narcotics, under the federal narcotic laws and the federal food and drug laws.

**318-B:25 Authority for Inspection.** All officers, agents, inspectors and representatives of the division of public health services who are charged with the responsibility to enforce this chapter, all peace officers within the state, the attorney general and all county attorneys are authorized to enter upon the premises used by a pharmacist for the purpose of his business and inspect such original prescriptions for controlled drugs as defined herein; and every pharmacist, his clerk, agent or servant shall exhibit to such person on demand every such original prescription so kept on file.

**318-B:26 Penalties.**

I. Any person who, except as authorized in this chapter,

(a) Manufactures, sells, prescribes, dispenses, compounds, transports with intent to sell or dispense, offers or gives or administers to another person any:

(1) Narcotic drug shall for a first offense be imprisoned for not more than twenty years or fined not more than five thousand dollars or both, and for each subsequent offense be imprisoned for not more than twenty-five years.

(2) Controlled drug other than a narcotic drug, shall for a first offense be imprisoned for not more than ten years or fined not more than two thousand dollars, or both, and for each subsequent offense be imprisoned for not more than fifteen years or fined not more than five thousand dollars or both.

(b) Possesses or has under his control, any quantity of any:

(1) Narcotic drug shall for a first offense be imprisoned for not more than five years or fined not more than two thousand dollars, or both, and for each subsequent offense be imprisoned for not more than ten years or fined not more than five thousand dollars, or both.

(2) Controlled drug other than a narcotic drug, shall be imprisoned not more than one year or fined not more than five hundred dollars, or both, and for each subsequent offense be imprisoned for not more than three years or fined not more than one thousand dollars, or both.

II. Any person who:

(a) Is present where he knows a controlled drug is illegally kept or deposited, or

(b) Is in the company of a person knowing that said person is illegally in possession of a controlled drug, shall be imprisoned not more than six months or fined not more than five hundred dollars, or both, and for each subsequent offense be imprisoned for not more than one year or fined not more than five hundred dollars, or both.

III. Any person who conspires with another person to violate any of the provisions of this chapter, shall be imprisoned for not more than two years or fined not more than two thousand dollars, or both.

IV. Any person who violates any provision of this chapter for which a penalty is not provided for by paragraphs I, II and III shall be imprisoned

not more than five years or fined not more than one thousand dollars, or both.

**318-B:27 Prior Offenses.** In the case of any person charged with a violation of any provision of this chapter, who has previously been convicted of a violation of the laws of the United States or any state, territory or the District of Columbia relating to controlled drugs as defined in this chapter, such previous conviction shall be deemed a prior offense.

**318-B:28 Recording of Sentences as Misdemeanors or Felonies.**

I. Any person convicted of a violation of any provision in this chapter whose sentence is:

- (a) Continued for sentence, or
- (b) Continued for sentence and placed on probation for not more than five years, or
- (c) Less than one year and one day or a fine of less than one thousand dollars, or both, (regardless of whether said sentence is suspended), or
- (d) Greater than one year and one day or a fine of more than one thousand dollars, or both, but a portion of said sentence is suspended so that the period designated to be served is less than one year and one day, or the fine ordered paid is less than one thousand dollars, shall be considered for all purposes to have been convicted of a misdemeanor and the conviction shall be so recorded in the records of the superior court and elsewhere.

Provided nevertheless that in the event any marking of continued for sentence and/or probation is brought forward and sentence designated for service is greater than one year and one day, or the fine ordered paid is greater than one thousand dollars then said person shall thereafter be considered for all purposes to have been convicted of a felony and the records of the superior court and elsewhere shall be amended accordingly.

**318-B:29 Effect of Acquittal or Conviction Under Federal Narcotic Laws.** No person shall be prosecuted for a violation of any provision of this chapter if such person has been acquitted or convicted under the federal narcotic laws or under the federal food and drug laws of the same act or omission which it is alleged constitutes a violation of this chapter.

**318-B:30 Severability.** If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

**421:2 Repeal.** RSA 318-A, the Uniform Narcotic Drug Act, as inserted by 1963, 276:1 and amended by 1967, 420:1 and 2, is hereby repealed, provided, however, that no offense committed and no penalty or forfeiture incurred under any provision of said chapter 318-A and before the time when such repeal shall take effect shall be affected by the repeal except that when any punishment, penalty or forfeiture shall be mitigated by the provisions of RSA 318-B as inserted by section 1 of this act, such provisions may be extended and applied to any sentences under chapter 318-A pronounced after such repeal.

**421:3 Effective Date.** This act shall take effect sixty days after its passage, provided that any manufacturer, or wholesaler holding a valid license under the provisions of chapter 318-A on the effective date of this act shall not be required to obtain a license and pay the fee as provided by RSA 318-B as inserted by section 1 of this act until January 1, 1970.

[Approved July 2, 1969.]

[Effective date August 31, 1969 provided that any manufacturer, or wholesaler holding a valid license under the provisions of chapter 318-A on the effective date of this act shall not be required to obtain a license and pay the fee as provided by RSA 318-B as inserted by section of this act until January 1, 1970.]

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## CHAPTER 422.

AN ACT TO GIVE THE SUPERIOR COURT POWER TO COMPEL DISCLOSURE OF  
INSURANCE COVERAGE.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

**422:1 Power to Compel Disclosure.** Amend RSA 498 by inserting after section 2 the following new section: **498:2-a Insurance Coverage in Tort Cases.** Prior to the trial of any action on the case for negligence, in which an insurance carrier has been joined or has come into defend, the superior court may, in its discretion and only if tht court feels it would assist in the settlement of the case, on motion, require said insurance carrier to disclose only to opposing counsel, for purposes of settlement negotiations, the policy limits of the policy of liability insurance between a defendant and the insurance carrier.

**422:2 Effective Date.** This act shall take effect sixty days after its passage.

[Approved July 2, 1969.]

[Effective date August 31, 1969.]

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## CHAPTER 423.

AN ACT TO AMEND THE WORKMEN'S COMPENSATION LAW.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

**423:1 Notice of Insurance Cancellation.** Amend RSA 281:11, as amended by 1957, 187:4, by striking out said section and inserting in place thereof the following: **281:11 Termination Notices.** In all instances where an insurance carrier is to cease providing workmen's compensation insurance to an employer, whether by reason of cancellation or otherwise, it shall file a written termination notice with the labor commissioner. Except when termination of coverage is by reason of change of carrier or of an employer