

access to the records, data and other information relating to the condition and treatment of patients in any such hospital in this state, for the purposes of supervision, discipline, admission, privileges or control of members of such hospital's medical staff; evaluating, studying and reporting on matters relating to the care and treatment of such patients and patients generally, research, reducing mortality, prevention and treatment of diseases, illnesses and injuries; and determining if a hospital and extended care facilities are being properly utilized.

Confidential Nature of Committee Activities

Section 2. All reports, findings, proceedings and data of such hospital medical staff committees shall be confidential and privileged.

Immunity From Liability

Section 3. No claim or action shall accrue against any hospital, medical staff member, or any employee of either, arising by virtue of the denial of staff privileges to any applicant or by virtue of suspension, expulsion or any other restrictive or disciplinary action against any medical staff member or hospital employee unless such action is arbitrary capricious and without foundation in fact.

Data and Hospital Medical Staff Committee Defined

Section 4. As used in this act, "data" means all reports, notes, findings, opinions or records of any hospital medical staff committee, including its consultants, advisers and assistants. As used in this act, "hospital medical staff committee" means any committee within a hospital, consisting of medical staff members or hospital personnel, which is engaged in supervision, discipline, admission, privileges or control of members of the hospital's medical staff, evaluation and review of medical care, utilization of hospital facilities, or professional training.

Approved March 4, 1971.

CHAPTER 246

Original House Bill No. 1

WYOMING CONTROLLED SUBSTANCES ACT OF 1971

AN ACT providing a comprehensive codification and revision of the laws of the State of Wyoming relating to controlled substances and the use and abuse of drugs; providing for the office of Commissioner of Drugs and Substances Control; establishing an advisory board on drugs and substances control; requiring the State Board of Pharmacy to administer the registration of the manufacture, distribution, and dispensing of controlled substances; defining terms; establishing standards and schedules; regulating the lawful manufacture, distribution, and dispensing of controlled substances; providing for crimes and offenses; providing for the enforcement and administration of the act; providing for severability; providing an effective date; and repealing Sections 6-197 through 6-202, inclusive, Wyoming Statutes 1957; Sections 35-348 through 35-368, inclusive, Wyoming Statutes 1957; Section 35-369, Wyoming Statutes 1957, as amended by Chapter 212, Session Laws of Wyoming 1969; Sections 35-370 and 35-371, Wyoming Statutes 1957; Chapter 158, Session Laws of Wyoming 1967, as amended by Chapter 211, Session Laws of Wyoming 1969.

Be It Enacted by the Legislature of the State of Wyoming:

ARTICLE I

Citation of Act

Section 1. This act shall be known and may be cited as the Wyoming Controlled Substances Act of 1971.

Definitions

Section 2. As used in this act:

(a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(i) A practitioner (or by his authorized agent), or

(ii) the patient or research subject at the direction of the practitioner;

(b) "agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman;

(c) "bureau" means the Bureau of Narcotics and Dangerous Drugs, United States Department of Justice, or its successor agency;

(d) "controlled substance" means a drug, substance, or immediate precursor in Schedules I through V of Article II;

(e) "counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;

(f) "deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship;

(g) "dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery;

(h) "dispenser" means a practitioner who dispenses, or his authorized agent;

(i) "distribute" means to deliver other than by administering or dispensing a controlled substance;

(j) "distributor" means a person who distributes;

(k) "drug" means:

(i) substances recognized as drugs in official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United

States, or official National Formulary, or any supplement to any of them;

(ii) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;

(iii) substances (other than food) intended to affect the structure or any function of the body of man or animals; and

(iv) substances intended for use as a component of any article specified in clause (i), (ii), or (iii) of this subsection. It does not include devices or their components, parts or accessories.

(1) "immediate precursor" means a substance which the commissioner has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture;

(m) "manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extractions and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled substance:

(i) by a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice, or

(ii) by a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale;

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

(o) "narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(i) opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(ii) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the

substances referred to in clause (i), but not including the isoquinoline alkaloids of opium;

(iii) opium poppy and poppy straw;

(iv) coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine;

(p) "opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under Section 11 of this act, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;

(q) "opium poppy" means the plant of the species *Papaver somniferum L.*, except its seeds;

(r) "person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;

(s) "poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;

(t) "practitioner" means:

(i) a physician, dentist, veterinarian, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state;

(ii) a pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice of research in this state;

(u) "production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance;

(v) "state" means the State of Wyoming;

(w) "ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household;

(x) "law enforcement officer" means any sheriff, undersheriff or sheriff's deputy of any county of this state, any duly authorized municipal policeman of any city or town of this state, any member of the Wyoming Highway Patrol, or any special agent employed by the commissioner under this act;

(y) "board" means the Wyoming State Board of Pharmacy;

(z) "commissioner" means the Commissioner of Drugs and Substances Control.

ARTICLE II

Commissioner of Drugs and Substances Control

Section 3. The Attorney General of the State of Wyoming is hereby designated Commissioner of Drugs and Substances Control.

Employment of Personnel

Section 4. The Attorney General by and with the consent of the governor may employ such personnel as necessary to administer this act. Such personnel shall serve at the pleasure of the attorney general at such compensation as may be approved by the Wyoming Personnel Commission. Said personnel shall be assigned such duties as may be necessary to assist the commissioner in the performance of his responsibilities under this act for the efficient operation of the work of the office.

Advisory Board On Drugs and Substances Control Established; Composition; Expenses; Duties

Section 5. There is hereby established an advisory board on drugs and substances control for the purpose of assisting and advising the commissioner of drugs and substances control in carrying out the functions of his office. The members of such advisory board shall receive no compensation for their services except that they shall receive travel expenses and per diem in the same manner and amount as employees of the State of Wyoming. The advisory board shall consist of the Director of the Division of Public Health, Department of Health and Social Services, and the administrative assistant to the Wyoming State Board of Pharmacy. In addition to any other duties imposed upon such advisory board by this or any other act, it shall be the duty of such board to advise the commissioner of drugs and substances control as to which substances shall be declared controlled drugs and substances subjected to the controls provided by law.

Cooperation With Commissioner

Section 6. It shall be the duty of all departments, officers, agencies, and employees of the State of Wyoming to cooperate with the commissioner of drugs and substances control in carrying out his functions under this or any other act.

Powers and Duties of Commissioners

Section 7. The commissioner of drugs and substances control may, in addition to other powers and duties vested in him by this or any other act:

- (a) Cooperate with federal and other state agencies in discharging his responsibilities concerning traffic in drugs and substances;
- (b) arrange for the exchange of information between governmental officials concerning the use and abuse of drugs and substances;
- (c) coordinate and cooperate in training programs on drugs and substances law-enforcement at the local and state level;

(d) conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled drugs and substances may be extracted;

(e) coordinate and regulate educational programs designed to prevent and deter misuse and abuse of controlled drugs and substances;

(f) encourage research into the misuse and abuse of controlled drugs and substances; in connection therewith and in furtherance of his other duties he is authorized to:

(i) Establish methods to assess accurately the effects of controlled drugs and substances and to identify and characterize controlled drugs and substances with potential for abuse;

(ii) make studies and undertake programs of research to:

A. develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this act;

B. determine patterns of misuse and abuse of controlled drugs and substances and the social effects thereof, and

C. improve methods of preventing, predicting, understanding, and dealing with the misuse and abuse of controlled drugs and substances; and

(iii) enter into contracts with public agencies, institutions of higher education and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled drugs and substances;

(g) enter into contracts for educational and research activities without performance bonds;

(h) authorize persons engaged in research on the use and effects of drugs and substances to withhold names and other identifying characteristics of persons who are the subjects of such research, such persons who obtain this authorization may not be compelled in any state, civil, criminal, administrative, legislative or other proceeding to identify the subjects of research for which such authorization was obtained;

(i) authorize the possession and distribution of controlled drugs and substances by persons engaged in research, persons who obtain such authorization shall be exempt from state prosecution for possession and distribution of drugs and substances to the extent authorized by the commissioner.

Acceptance of Federal Funds By Commissioner; Powers

Section 8. (a) Except as otherwise provided by law, the commissioner of drugs and substances control is hereby designated as the agency of the State of Wyoming to accept the provisions of and funds and grants made by or under any act of the Congress of the United States providing funds for programs relating to drugs and dangerous substances, and as the agency to administer or supervise the administration of any state plan established or funds received by the state by virtue of any federal statute relating to aid to the

states for the purpose of drugs and dangerous substances control; provided, that each acceptance of such federal funds shall be restricted in its effect to the specific situation involved under such acceptance.

(b) The commissioner of drugs and substances control may:

(i) enter into an agreement with the proper federal agency to procure for the state the benefits of the federal statutes;

(ii) establish a state plan, if required by the federal statute, to qualify the state for the benefits of the federal statute;

(iii) provide for reports to be made to the federal agency as may be required;

(iv) provide for reports to be made to the commissioner of drugs and substances control from local agencies receiving federal funds;

(v) make surveys and studies in cooperation with other agencies to determine the needs of the state with respect to the application of federal funds;

(vi) establish standards to which agencies must conform in receiving federal funds;

(vii) take such other action as may be necessary to secure the benefits of the federal statutes to the State of Wyoming.

Receipt of Funds

Section 9. Whenever the State of Wyoming shall be entitled to receive any moneys or funds from the United States of America, or from any other source or authority, to be expended for the purposes of this act, the state treasurer is hereby authorized to receive and receipt for such moneys or funds, and to make such application and use of the same as may be required by law.

State Board of Pharmacy—Administration

Section 10. The Wyoming State Board of Pharmacy in addition to any other duties imposed upon it by law is hereby designated as the agency to administer the registration of the manufacture, distribution and dispensing of controlled substances as hereinafter provided in this act.

ARTICLE III

Administration of Act; Substance Determination; Findings; Controlled Substance Under Federal Law; Hearing

Section 11. (a) The commissioner shall administer this act and with the advice of the advisory board established in Section 4 of this act may add substances to or delete or reschedule all substances enumerated in the schedules in Sections 14, 16, 18, 20 and 22 pursuant to the procedures of the Wyoming Administrative Procedure Act. In making a determination regarding a substance, the commissioner shall consider the following:

(i) the actual or relative potential for abuse;

(ii) the scientific evidence of its pharmacological effect, if known;

(iii) the state of current scientific knowledge regarding the substance;

(iv) the history and current pattern of abuse;

(v) the scope, duration, and significance of abuse;

(vi) the risk to the public health;

(vii) the potential of the substance to produce psychic or physiological dependence liability; and

(viii) whether the substance is an immediate precursor of a substance already controlled under this Article;

(ix) its other uses, both medical and commercial.

(b) After considering factors enumerated in subsection (a), the commissioner shall make findings with respect thereto and issue a rule controlling the substance if he finds the substance has a potential for abuse.

(c) If the commissioner designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

(d) If any substance is designated, rescheduled, or deleted as a controlled substance under Federal law and notice thereof is given to the commissioner, the commissioner shall similarly control the substance under this Act after the expiration of 30 days from publication in the Federal Register of a final order designating a substance as a controlled substance, or rescheduling, or deleting a substance unless within that 30 day period, the commissioner objects to inclusion, rescheduling or deletion. In that case the commissioner shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the commissioner shall publish his decision which shall be final unless altered by statute. Upon publication of objection to inclusion, rescheduling or deletion under this Act by the commissioner, control under this Act is stayed until the commissioner publishes his final decision.

(e) Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco.

(f) The commissioner shall exclude any non-narcotic substance from a schedule if such substance may under the Federal Food, Drug and Cosmetic Act and Section 33-304.22 of the Wyoming Pharmacy Act, be lawfully sold over the counter without a prescription.

Names of Controlled Substances

Section 12. The controlled substances listed or to be listed in the schedules in Sections 14, 16, 18, 20 and 22 are included by whatever official, common, usual, chemical, or trade name designated.

Criteria for Placing Substance in Schedule I

Section 13. The commissioner shall place a substance in Schedule I if he finds that the substance:

(a) has high potential for abuse; and

(b) has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

Schedule I

Section 14. (a) The controlled substances listed in this section are included in Schedule I.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of the isomers, esters, ethers and salts is possible within the specific chemical designation:

- (1) Acetylmethadol;
- (2) Allylprodine;
- (3) Alphacetylathadol;
- (4) Alphameprodine;
- (5) Alphamethadol;
- (6) Benzethidine;
- (7) Betacetylmethadol;
- (8) Betameprodine;
- (9) Betamethadol;
- (10) Betaprodine;
- (11) Clonitazene;
- (12) Dextromoramide;
- (13) Dextrorphan;
- (14) Diampromide;
- (15) Diethylthiambutene;
- (16) Dimenoxadol;
- (17) Dimepheptanol;
- (18) Dimethylthiambutene;
- (19) Dioxaphetyl butyrate;
- (20) Dipipanone;
- (21) Ethylmethylthiambutene;
- (22) Etonitazene;
- (23) Etoxeridine;
- (24) Furethidine;
- (25) Hydroxypethidine;
- (26) Ketobemidone;
- (27) Levomoramide;
- (28) Levophenacymorphan;
- (29) Morpheridine;
- (30) Noracymethadol;
- (31) Norlevorphanol;

- (32) Normethadone;
- (33) Norpipanone;
- (34) Phenadoxone;
- (35) Phenampromide;
- (36) Phenomorphan;
- (37) Phenoperidine;
- (38) Piritramide;
- (39) Proheptazine;
- (40) Properidine;
- (41) Racemoramide;
- (42) Trimeperidine.

(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Etorphine;
- (10) Heroin;
- (11) Hydromorphinol;
- (12) Methyldesorphine;
- (13) Methylhydromorphine;
- (14) Morphine methylbromide;
- (15) Morphine Methylsulfonate;
- (16) Morphine-N-Oxide;
- (17) Myrophine;
- (18) Nicocodeine;
- (19) Nicomorphine;
- (20) Normorphine;
- (21) Pholcodine;
- (22) Thebacon.

(d) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) 3,4-methylenedioxy amphetamine;
- (2) 5-methoxy-3, 4-methylenedioxy amphetamine;
- (3) 3,4,5-trimethoxy amphetamine;
- (4) Bufotenine;
- (5) Diethyltryptamine;

- (6) Dimethyltryptamine;
- (7) 4-methyl-2,5-dimethoxyamphetamine;
- (8) Ibogaine;
- (9) Lysergic acid diethylamide;
- (10) Marihuana;
- (11) Mescaline;
- (12) Peyote;
- (13) N-ethyl-3-piperidyl benzilate;
- (14) N-methyl-3-piperidyl benzilate;
- (15) Psilocybin;
- (16) Psilocyn;
- (17) Tetrahydrocannabinols.

Criteria for Placing Substance in Schedule II

Section 15. The commissioner shall place a substance in Schedule II if he finds that:

- (a) the substance has high potential for abuse;
- (b) the substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and
- (c) abuse of the substance may lead to severe psychic or physical dependence.

Schedule II

Section 16. (a) The controlled substances listed in this section are included in Schedule II.

(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium;

(3) Opium poppy and poppy straw;

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(c) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible with the specific chemical designation:

- (1) Alphaprodine;
- (2) Anileridine;
- (3) Bezitramide;
- (4) Dihydrocodeine;
- (5) Diphenoxylate;
- (6) Fentanyl;
- (7) Isomethadone;
- (8) Levomethorphan;
- (9) Levorphanol;
- (10) Metazocine;
- (11) Methadone;
- (12) Methadone—Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane;
- (13) Moramide—Intermediate, 2-methyl-3-morpholino-1,1-diphenylpropane carboxylic acid;
- (14) Pethidine;
- (15) Pethidine—Intermediate—A, 4-cyano-1-methyl-4-phenylpiperidine;
- (16) Pethidine—Intermediate—B, ethyl-4-phenylpiperidine-4-carboxylate;
- (17) Pethidine—Intermediate—C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (18) Phenazocine;
- (19) Piminodine;
- (20) Racemethorphan;
- (21) Racemorphan.

Criteria for Placing Substance in Schedule III

Section 17. The commissioner shall place a substance in Schedule III if he finds that:

- (a) the substance has a potential for abuse less than the substances listed in Schedule I and II;
- (b) the substance has currently accepted medical use in treatment in the United States; and
- (c) abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

Schedule III

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

- (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (2) Phenmetrazine and its salts;
- (3) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers;

(4) Methylphenidate.

(c) Unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules;

- (2) Chorhexadol;
- (3) Glutethimide;
- (4) Lysergic acid;
- (5) Lysergic acid amide;
- (6) Methyprylon;
- (7) Phencyclidine;
- (8) Sulfondiethylmethane;
- (9) Sulfonethylmethane;
- (10) Sulfonmethane.

(d) Nalorphine.

(e) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof;

(1) not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(3) not more than 300 milligrams of dihydrocodeinone or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams [milligrams] per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(5) not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(6) not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts;

(7) not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(8) not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

(f) The commissioner may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections (b) and (c) from the application of all or any part of this act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

Criteria for Placing Substance in Schedule IV

Section 19. The commissioner shall place a substance in Schedule IV if he finds that:

(a) the substance has a low potential for abuse relative to substances in Schedule III;

(b) the substance has currently accepted medical use in treatment in the United States; and

(c) abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

Schedule IV

Section 20. (a) The controlled substances listed in this section are included in Schedule IV.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

- (1) Barbital;
- (2) Chloral betaine;
- (3) Chloral hydrate;
- (4) Ethchlorvynol;
- (5) Ethinamate;
- (6) Methohexital;
- (7) Meprobamate;
- (8) Methylphenobarbital;
- (9) Paraldehyde;
- (10) Petrichloral;
- (11) Phenobarbital.

(c) The commissioner may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (b) from the application of all or any part of this act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central

nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substance which have a depressant effect on the central nervous system.

Criteria for Placing Substance in Schedule V

Section 21. The commissioner shall place a substance in Schedule V if he finds that:

(a) the substance has low potential for abuse relative to the controlled substances listed in Schedule IV;

(b) the substance has currently accepted medical use in treatment in the United States; and

(c) the substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

Schedule V

Section 22. (a) The controlled substances listed in this section are included in Schedule V.

(b) Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams;

(2) not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;

(3) not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams;

(4) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

ARTICLE IV

Administration of Registration Requirements; Rules; Fees

Section 23. The Wyoming State Board of Pharmacy shall have the responsibility for administering the registration requirements of this article, and may promulgate rules and charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this state.

Persons Required to Register; Exceptions; Waiving Registration Requirement; Separate Registration for Each Place of Business; Inspection of Establishment

Section 24. (a) Every person who manufactures, distributes, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, must obtain annually a registration issued by the board in accordance with its rules.

(b) Persons registered by the board under this act to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this Article.

(c) The following persons need not register and may lawfully possess controlled substances under this act:

(i) an agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if he is acting in the usual course of his legitimate business or employment;

(ii) a common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(iii) an ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V substance.

(d) The board may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.

(e) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

(f) The board may inspect the establishment of a registrant or applicant for registration in accordance with the rules and regulations promulgated by the board.

When Registration Inconsistent With Public Interest; Determination of Public Interest; Registration of Practitioners; Manufacturers and Distributors Complying With Federal Law Entitled Registration Under Act

Section 25. (a) The board shall register an applicant to manufacture or distribute controlled substances included in Sections 14, 16, 18, 20 and 22 unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the board shall consider the following factors:

(i) Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

(ii) compliance with applicable state and local law;

(iii) any conviction of the applicant under any federal and state laws relating to any controlled substance;

(iv) past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;

(v) furnishing by the applicant of false or fraudulent material in any application filed under this act;

(vi) suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

(vii) any other factors relevant to and consistent with the public health and safety.

(b) Registration under subsection (a) does not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II other than those specified in the registration.

(c) Practitioners must be registered to dispense any controlled substances or to conduct research with controlled substances in Schedules II through V if they are authorized to dispense or conduct research under the law of this state. The board need not require separate registration under this Article for practitioners engaging in research with non-narcotic controlled substances in Schedules II through V where the registrant is already registered under this Article in another capacity. Practitioners registered under federal law to conduct research with Schedule I substances may conduct research with Schedule I substances within this state upon furnishing the board evidence of that federal registration.

(d) Compliance by manufacturers and distributors with the provisions of the federal law respecting registration (excluding fees) entitles them to be registered under this act.

Suspension or Revocation of Registration

Section 26. (a) A registration under Section 25 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the board upon a finding that the registrant:

(1) Has furnished false or fraudulent material information in any application filed under this act;

(2) Has been convicted of a felony under any state or federal law relating to any controlled substance; or

(3) Has had his federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances

(b) The board may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) If the board suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals

have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.

(d) The board shall promptly notify the bureau of all orders suspending or revoking registration and all forfeitures of controlled substances.

Order Showing Cause for Denial, Suspension, Revocation or Refusing Renewal of Registration to be Served; Hearing; No Order if Imminent Danger to Public Health or Safety Exists

Section 27. (a) Before denying, suspending, or revoking a registration, or refusing a renewal of registration, the board shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked or suspended, or why the renewal should not be refused. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the board at a time and place not less than 30 days after the date of service of the order, but in the case of a denial or renewal of registration the show cause order shall be served not later than 30 days before the expiration of the registration. These proceedings shall be conducted in accordance with the Wyoming Administrative Procedure Act without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

(b) The board may suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under Section 26, or where renewal of registration is refused, if it finds there is imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the board or dissolved by a court of competent jurisdiction.

Persons Registered to Keep Records

Section 28. Persons registered to manufacture, distribute, or dispense controlled substances under this act shall keep records and maintain inventories in conformance with the record-keeping and inventory requirements of federal law and with any additional rules the board issues.

Order Forms

Section 29. Controlled substances in Schedules I and II shall be distributed by a registrant to another registrant only pursuant to an order form. Compliance with the provisions of federal law respecting order forms shall be deemed compliance with this Section.

Dispension of Drugs; Written Prescription of Practitioner; Limitations on Refilling of Prescriptions

Section 30. (a) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance

in Schedule II may be dispensed without the written prescription of a practitioner.

(b) In emergency situations [situations], as defined by rule of the board, Schedule II drugs may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of Section 28. No prescription for a Schedule II substance may be refilled.

(c) Except when dispensed directly by a practitioner other than a pharmacy to an ultimate user, a controlled substance included in Schedule III or IV, which is a prescription drug as determined under state or federal statute, shall not be dispensed without a written or oral prescription of a practitioner. The prescription shall not be filled or refilled more than 6 months after the date thereof or be refilled more than 5 times, unless renewed by the practitioner.

(d) A controlled substance included in Schedule V shall not be distributed or dispensed other than for a medical purpose.

ARTICLE V

Unlawful Activities; Penalties

Section 31. (a) Except as authorized by this act, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance.

Any person who violates this subsection with respect to:

(i) A controlled substance classified in Schedule I or II which is a narcotic drug, is guilty of a crime and upon conviction may be imprisoned for not more than twenty (20) years, or fined not more than Twenty-five Thousand Dollars (\$25,000.00), or both;

(ii) Any other controlled substance classified in Schedule I, II or III, is guilty of a crime and upon conviction may be imprisoned for not more than ten (10) years, fined not more than Ten Thousand Dollars (\$10,000.00), or both;

(iii) A substance classified in Schedule IV, is guilty of a crime and upon conviction may be imprisoned for not more than two (2) years, fined not more than Two Thousand Five Hundred Dollars (\$2,500.00), or both;

(iv) A substance classified in Schedule V, is guilty of a crime and upon conviction may be imprisoned for not more than one (1) year, fined not more than One Thousand Dollars (\$1,000.00), or both.

(b) Except as authorized by this act, it is unlawful for any person to create, deliver, or possess with intent to deliver, a counterfeit substance.

Any person who violates this subsection with respect to:

(i) A counterfeit substance classified in Schedule I or II which is a narcotic drug, is guilty of a crime and upon conviction may be imprisoned for not more than twenty (20) years, fined not more than Twenty-five Thousand Dollars (\$25,000.00), or both;

(ii) Any other counterfeit substance classified in Schedule I, II or III, is guilty of a crime and upon conviction may be imprisoned for not more than ten (10) years, fined not more than Ten Thousand Dollars (\$10,000.00), or both;

(iii) A counterfeit substance classified in Schedule IV, is guilty of a crime and upon conviction may be imprisoned for not more than two (2) years, fined not more than Two Thousand Five Hundred Dollars (\$2,500.00), or both;

(iv) A counterfeit substance classified in Schedule V, is guilty of a crime and upon conviction may be imprisoned for not more than one (1) year, fined not more than One Thousand Dollars (\$1,000.00), or both.

(c) It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this act. Any person who violates this subsection is guilty of a misdemeanor and may be imprisoned in the county jail not more than six (6) months and fined not more than One Thousand Dollars (\$1,000.00). Any person convicted for a third or subsequent offense under this subsection shall be imprisoned in the state penitentiary for not more than five (5) years, and fined not more than Five Thousand Dollars (\$5,000.00), or both.

Additional Unlawful Activities; Penalties

Section 32. (a) It is unlawful for any person:

(i) who is subject to Article IV to distribute or dispense a controlled substance in violation of Section 30;

(ii) who is a registrant, to manufacture a controlled substance not authorized by his registration, or to distribute or dispense a controlled substance not authorized by his registration to another registrant or other authorized person;

(iii) to refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under this act;

(iv) to refuse an entry into any premises for any inspection authorized by this act; or

(v) knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place, which is resorted to by persons using controlled substances in violation of this act for the purpose of using these substances, or which is used for keeping or selling them in violation of this act.

(b) Any person who violates this section is punishable by a civil fine of not more than Ten Thousand Dollars (\$10,000.00); provided, that if the violation is prosecuted by a complaint, information or indictment which alleges that the violation was committed knowingly or intentionally, and the trier of fact specifically finds that the violation was committed knowingly or intentionally such person is punishable by imprisonment for not more than one (1) year or a fine of not more than Ten Thousand Dollars (\$10,000.00), or both such fine and imprisonment.

Unlawful Activities; Penalties

Section 33. (a) It is unlawful for any person knowingly or intentionally:

(i) to distribute as a registrant a controlled substance classified in Schedule I or II, except pursuant to an order form as required by Section 29 of this act;

(ii) to use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, revoked, suspended, or issued to another person;

(iii) to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge;

(iv) to furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this act, or any record required to be kept by this act; or

(v) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render the drug a counterfeit substance.

(b) Any person who violates this section is guilty of a crime and upon conviction may be imprisoned for not more than five (5) years, or fined not more than Ten Thousand Dollars (\$10,000.00), or both.

Penalty for Violation is in Addition to Other Sanctions

Section 34. Any penalty imposed for violation of this act is in addition to, and not in lieu of, any civil administrative penalty or sanction otherwise authorized by law.

Double Conviction is Prohibited

Section 35. If a violation of this act is a violation of a federal law or a law of another state, a conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

Distribution of Controlled Substances to Persons Under Eighteen Years of Age; Penalties

Section 36. Any person eighteen (18) years of age or over who violates Section 31 (a) by distributing a controlled substance listed in Schedules I or II which is a narcotic drug to a person under eighteen (18) years of age who is at least three (3) years his junior is punishable by the fine authorized by Section 31(a) (i), by a term of imprisonment of up to twice that authorized by Section 31(a) (i), or both. Any person eighteen (18) years of age or over who violates Section 31(a) by distributing any other controlled substance listed in Schedules I, II, III, to a person under eighteen (18) years of age who is at least three (3) years his junior is punishable by the fine authorized by Section 31(a) (ii), by a term of imprisonment up to twice that authorized by Section 31(a) (ii), or both. Any person eighteen (18) years of age or over who violates Section 31(a) by distributing any controlled substance listed in Schedule IV to a person under eighteen (18) years of age who is at least three (3)

years his junior is punishable by the fine authorized by Section 31(a)(iii), by a term of imprisonment up to twice that authorized by Section 31(a)(iii), or both. Any person eighteen (18) years of age or over who violates Section 31(a) by distributing any controlled substance listed in Schedule V to a person under eighteen (18) years of age who is at least three (3) years his junior is punishable by the fine authorized by Section 31(a)(iv), by a term of imprisonment up to twice that authorized by Section 31(a)(iv), or both.

First Offense; Discharge and Dismissal

Section 37. Whenever any person who has not previously been convicted of any offense under this act or under any statute of the United States or of any state relating to narcotic drugs, marihuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under Section 31(c), the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions.

Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions under Section 38. There may be only one discharge and dismissal under this section with respect to any person. This Section shall not be construed to provide an exclusive procedure. Any other procedure provided by law relating to suspension of trial or probation, may be followed, in the discretion of the trial court.

Second or Subsequent Offense; Penalty

Section 38. (a) Any person convicted of a second or subsequent offense under this act may be imprisoned for a term up to twice the term otherwise authorized, fined an amount up to twice that otherwise authorized, or both such fine and imprisonment.

(b) For purposes of this section, an offense is a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this act or under any statute of the United States or of any state relating to narcotic drugs, marihuana [marihuana], depressant, stimulant, or hallucinogenic drugs.

(c) This section shall not apply to offenses under Section 31 (c).

Under Influence of Controlled Substance; Penalty

Section 39. Any person who knowingly or intentionally uses or is under the influence of a controlled substance listed in Schedules I, II or III excepting when administered or prescribed by or under the direction of a licensed practitioner, shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not to exceed ninety (90) days or a fine not to exceed One Hundred Dollars (\$100.00), or by both.

Processing Controlled Substances; Penalty

Section 40. Any person who knowingly or intentionally plants, cultivates, harvests, dries, or processes any marihuana, peyote, or opium poppy except as otherwise provided by law shall be guilty of a misdemeanor and shall be punished by imprisonment not to exceed six (6) months in the county jail or by a fine not to exceed One Thousand Dollars (\$1,000.00), or both.

Offering Other Substance in Lieu of Controlled Substance; Penalty

Section 41. Any person who in any manner offers to unlawfully sell, furnish, transport, administer, or give any controlled substance to any person, or offers, arranges, or negotiates to have any controlled substance unlawfully sold, delivered, transported, furnished, administered, or given to any person and then sells, delivers, furnishes, transports, administers, or gives, or offers, arranges, or negotiates to have sold, delivered, transported, furnished, administered or given to any person any other liquid, substance, or material in lieu of any controlled substance shall be punished by imprisonment for not more than (1) year, or fined not more than One Thousand Dollars (\$1,000.00) or by both such fine and imprisonment.

Attempting or Conspiring to Commit Offense; Penalty

Section 42. Any person who attempts or conspires to commit any offense under this article within the State of Wyoming or who conspires to commit an act beyond the State of Wyoming which if done in this state would be an offense punishable under this article, shall be punished by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense the commission of which was the object of the attempt or conspiracy.

Persons Investigating Violations Granted Immunity from Prosecution

Section 43. All duly authorized peace officers including any special agents or other personnel appointed by the commissioner, while investigating violations of this act in performance of their official duties, shall be immune from prosecution under this act. Any person working under the immediate direction, supervision or instruction of a duly authorized peace officer, special agent or other person appointed by the commissioner, may be granted immunity from prosecution under this act by the commissioner. In addition to the foregoing persons, such immunity may also be granted to any person whose testimony is necessary to secure a conviction under this act with the consent of district judge in the district wherein prosecution is to take place. Any person granted immunity under this section shall not be excused from testifying or producing evidence on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to penalty or forfeiture. Any person who except for the provisions of this act, would have been privileged to withhold the testimony given or the evidence produced by him shall not be prosecuted, subjected to any penalty, forfeiture, for or on account of any transaction, matter or thing concerning which, by reason of said immunity, he gave testimony and produced evidence; and no such testimony given or evidence produced shall be received against him in any criminal proceeding. Provided, no person given immunity

under this section shall be exempt from prosecution for perjury or contempt committed while giving testimony or producing evidence under compulsion as provided in this section.

Use of Peyote by Native American Church of Wyoming

Section 44. Nothing in this act shall be construed to prohibit the delivery possession or use of peyote in natural form, when delivered, possessed or used for bona fide religious sacramental purposes by members of the Native American Church of Wyoming .

ARTICLE VI

Enforcement of Act

Section 45. (a) Notwithstanding the powers conferred upon the attorney general by this act all law enforcement officers within this state shall have the responsibility for the enforcement of this act.

(b) Any special agent designated by the attorney general and any law enforcement officer engaged in the enforcement of this act may:

(i) Carry firearms in the performance of his official duties;

(ii) Serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this state;

(iii) make arrests without warrant for any offense under this act committed in his presence, or if he has probable cause to believe that the person to be arrested has committed, or is committing a violation of this act;

(iv) make seizures of property pursuant to this act; and

(v) perform such other law enforcement duties as the commissioner may designate.

(c) All prosecutions originating under this act shall be the duty and obligation of the county and prosecuting attorney of the county in which the offense occurred.

(d) A search warrant relating to offenses involving controlled substances may be served at any time of the day or night if the judge or district court commissioner issuing the warrant is satisfied that there is probable cause to believe that grounds exist for the warrant and for its service at such time.

(e) Any officer authorized to execute a search warrant relating to offenses involving controlled substances the penalty for which is imprisonment for more than one year may, without notice of his authority and purpose, break open an outer or inner door or window of a building, or any part of the building, or anything therein, only if a district judge or district court commissioner issuing the warrant.

(i) is satisfied that there is probable cause to believe that

(1) the property sought may and, if such notice is given, will be easily and quickly destroyed or disposed of, or

(2) the giving of such notice will immediately endanger the life or safety of the executing officer or another person, and

(ii) has included in the warrant a direction that the officer executing it shall not be required to give such notice. Any officer acting under such warrant, shall, as soon as practicable after entering the premises, identify himself and give the reason and authority for his entrance upon the premises.

Administrative Inspection Warrants

Section 46. (a) Issuance and execution of administrative inspection warrants for controlled premises as defined in this section shall be as follows:

(i) Any district court judge or district court commissioner upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting administrative inspections authorized by this act or rules hereunder and seizures of property appropriate to such inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this act, as it relates to the regulation of the legitimate traffic in controlled substances, sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant;

(ii) a warrant shall issue only upon an affidavit of a designated officer or employee of the board or of the commissioner having knowledge of the facts alleged, sworn to before the district judge or district court commissioner establishing the grounds for issuing the warrant. If the district judge or district court commissioner is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of the inspection, and, if appropriate, the type of property to be inspected, if any. The warrant shall:

(1) state the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;

(2) be directed to a person authorized by Section 45 to execute it;

(3) command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified;

(4) identify the item or types of property to be seized, if any;

(5) direct that it be served during normal business hours and designate the judge to whom it shall be returned;

(iii) a warrant issued pursuant to this section must be executed and returned within ten (10) days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the property is taken,

together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least one credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant;

(iv) the judge or district court commissioner who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the district court for the judicial district in which the inspection was made.

(b) The board may make administrative inspections of controlled premises in accordance with the following provisions:

(i) For purposes of this section only, "controlled premises" means:

(1) places where persons registered or exempted from registration requirements under this act are required to keep records; and

(2) places including factories, warehouses, establishments, and conveyances in which persons registered or exempted from registration requirements under this act other than an ultimate user are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance;

(ii) when authorized by an administrative inspection warrant issued pursuant to subsection (a) an officer or employee designated by the board or commissioner, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection;

(iii) when authorized by an administrative inspection warrant, an officer or employee designated by the board or commissioner may;

(1) inspect and copy records required by this act to be kept;

(2) inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers, and labeling found therein, and except as provided in subsection (b) (v), all other things therein, including records, files, papers, processes, controls, and facilities bearing on violation of this act; and

(3) inventory any stock of any controlled substance therein and obtain samples thereof;

(iv) this section does not prevent the inspection without a warrant of books and records pursuant to an administrative subpoena issued in accordance with the Wyoming Administrative Procedure Act and the rules promulgated thereunder, nor does it prevent entries and administrative inspections, including seizures of property, without a warrant:

(1) if the owner, operator, or agent in charge of the controlled premises consents;

(2) in situations presenting imminent danger to health or safety where a warrant is not constitutionally required; or

(3) in situations involving inspection of conveyances if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(4) in any other exceptional or emergency circumstances where time or opportunity to apply for a warrant is lacking and a warrant is not constitutionally required; or

(5) in all other situations in which a warrant is not constitutionally required;

(v) an inspection authorized by this section shall not extend to financial data, sales data, other than shipment data, or pricing data, unless the owner, operator, or agent in charge of the controlled premises consents in writing.

Jurisdiction of District Courts

Section 47. (a) The district courts of this state have jurisdiction to restrain or enjoin violations of this act.

(b) The defendant may demand trial by jury for an alleged violation of an injunction or restraining order under this section.

Cooperation With Federal and Other State Agencies

Section 48. (a) The State Board of Pharmacy and the commissioner shall cooperate with federal and other state agencies in discharging their responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, they may:

(i) arrange for the exchange of information among governmental officials concerning the use and abuse of controlled substances;

(ii) coordinate and cooperate in training programs concerning controlled substance law enforcement at local and state levels;

(iii) cooperate with the bureau by establishing a centralized unit to accept, catalogue, file, and collect statistics, including records of drug dependent persons and other controlled substance law offenders within the state, and make the information available for federal, state, and local law enforcement purposes. They shall not furnish the name or identity of a patient or research subject whose identity could not be obtained under Privileged Communication Acts; and

(iv) conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted.

(b) Results, information, and evidence received from the bureau relating to the regulatory functions of this act, including results of inspections conducted by it may be relied and acted upon by the board or commissioner in the exercise of the regulatory functions under this act.

Material and Property Subject to Forfeiture

Section 49. (a) The following are subject to forfeiture:

(i) all controlled substances which have been manufactured, distributed, dispensed or acquired in violation of this act;

(ii) all raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substances in violation of this act;

(iii) all property which is used as a container for property described in paragraph (i) or (ii);

(iv) all books, records, and research products and materials, including formulas, microfilm, tapes, and data, which are used, or intended for use, in violation of this act;

(b) property subject to forfeiture under this act may be seized by any law enforcement officer of the state upon process issued by any district court or commissioner having jurisdiction over the property. Seizure without process may be made if:

(i) the seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(ii) the property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal, injunction or forfeiture proceeding based upon this act;

(iii) the board or commissioner has probable cause to believe that the property was used or is intended to be used in violation of this act.

(c) In the event of seizure pursuant to subsection (b), proceedings under subsection (d) shall be instituted promptly.

(d) Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the commissioner subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When property is seized under this act, the commissioner may:

(i) place the property under seal;

(ii) remove the property to a place designated by him; or,

(iii) require the board to take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(e) When property is forfeited under this act, the commissioner may:

(i) retain it for official use; in which case it shall become the property of the State of Wyoming;

(ii) sell any such property which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings

for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs;

(iii) require the board to take custody of the property and remove it for disposition in accordance with law; or

(iv) forward it to the bureau for disposition.

(f) Controlled substances listed in Schedule I that are possessed, transferred, sold, or offered for sale in violation of this act are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I which are seized or come into the possession of the state, the owners of which are unknown, are contraband and shall be summarily forfeited to the state.

(g) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this act, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the state.

(h) The failure, upon demand by the commissioner, or his authorized agent, of the person in occupancy, or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

Burden of Proof; Immunity from Liability of Officers

Section 50. (a) It is not necessary for the state to negate any exemption or exception in this act in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this act. The burden of proof of any exemption or exception is upon the person claiming it.

(b) In the absence of proof that a person is the authorized holder of an appropriate registration or order form issued under this act, he is presumed not to be the holder of the registration or form. The burden of proof is upon him to rebut the presumption.

(c) No liability is imposed by this act upon any authorized state, county, or municipal officer engaged in the lawful performance of his duties.

Decisions of Board and Commissioner Are Final

Section 51. All final administrative determinations, findings and conclusions of the board or commissioner under this act are final and conclusive decisions of the matters involved. Any person aggrieved by the decision may obtain review of such decision in accordance with the Administrative Procedure Act. Findings of fact by the board or commissioner, if supported by substantial evidence, are conclusive.

Powers of Commissioner to Carry Out Educational Programs; Research on Misuse and Abuse of Controlled Substances and to Enter Educational and Research Contracts

Section 52. (a) The commissioner may carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. In connection with these programs he may:

(i) promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;

(ii) assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;

(iii) consult with interested groups and organizations to aid them in solving administrative and organizational problems;

(iv) evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances;

(v) disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to combat them; and,

(vi) assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances.

(b) The commissioner may encourage research on misuse and abuse of controlled substances. In connection with the research, and in furtherance of the enforcement of this act, he may:

(i) establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse;

(ii) make studies and undertake programs of research to:

(1) Develop new or improved approaches, techniques, systems, equipment, and devices to strengthen the enforcement of this act;

(2) determine patterns of misuse and abuse of controlled substances and the social effects thereof; and,

(3) improve methods for preventing, predicting, understanding, and dealing with the misuse and abuse of controlled substances; and

(iii) enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse of controlled substances.

(c) The commissioner may enter into contracts for educational and research activities without performance bonds.

(d) The commissioner shall authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subjects of the research. Persons who obtain this authorization are not compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

(e) The commissioner may authorize the possession and distribution of controlled substances by persons engaged in research. Per-

sons who obtain this authorization are exempt from state prosecution for possession and distribution of controlled substances to the extent of the authorization.

ARTICLE VII

Prosecution for Violation, Civil Seizures and Administrative Proceedings Prior to Effective Date of Act

Section 53. (a) Prosecution for any violation of law occurring prior to the effective date of this act is not affected or abated by this act. If the offense being prosecuted is similar to one set out in Article V of this act, the penalties under Article V apply if they are less than those under prior law.

(b) Civil seizures or forfeitures and injunctive proceedings commenced prior to the effective date of this act are not affected by this act.

(c) All administrative proceedings pending under prior laws which are superseded by this act shall be continued and brought to a final determination in accord with the laws and rules in effect prior to the effective date of the act. Any substance controlled under prior law which is not listed within Schedules I through V is automatically controlled without further proceedings and shall be listed in the appropriate schedule.

(d) The board shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution, or dispensing of any controlled substance prior to the effective date of this act and who are registered or licensed by the state.

(e) This act applies to violations of law, seizures and forfeiture, injunctive proceedings, administrative proceedings and investigations which occur following its effective date.

Orders and Rules Not Conflicting With Act

Section 54. Any orders and rules promulgated under any law affected by this act and in effect on the effective date of this act and not in conflict with it continue in effect until modified, superseded, or repealed.

Application of Act

Section 55. This act shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this act among those states which enact similar legislation.

Severability

Section 56. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Effective Date

Section 57. This act shall be in force and take effect from and after passage.

Sections Repealed

Section 58. Sections 6-197 through 6-202 inclusive, Wyoming Statutes 1957; Sections 35-348 through 35-368 inclusive, Wyoming Statutes 1957; Section 35-369, Wyoming Statutes 1957, as amended by Chapter 212, Session Laws of Wyoming 1969; Sections 35-370 and 35-371, Wyoming Statutes 1957; Chapter 158, Session Laws of Wyoming 1967, as amended by Chapter 211, Session Laws of Wyoming 1969, are hereby repealed.

Approved March 4, 1971.

CHAPTER 247

Original Senate File No. 269

EIGHTEEN YEAR OLD RIGHTS AND RESPONSIBILITIES

(Effective Only If Proposed Wyoming Constitutional Amendment Is Approved in November of 1972, See Section 141.)

AN ACT to amend and re-enact Section 1-500, Wyoming Statutes 1957, relating to the homestead exemption; to amend and re-enact Section 1-509, Wyoming Statutes 1957, relating to lawsuits in which minors over the age of fourteen are parties; to amend and re-enact Section 1-517, Wyoming Statutes 1957, relating to service of process upon minors over the age of fourteen years; to amend and re-enact Section 1, Chapter 59, Session Laws of Wyoming 1963, relating to definitions; to amend and re-enact subsection (A) of Section 1-708, Wyoming Statutes 1957 as amended and re-enacted by Section 1, Chapter 39, Session Laws of Wyoming 1965, relating to proceedings for adoption of minor children; to amend and re-enact Section 1-709, Wyoming Statutes 1957 as amended and re-enacted by Section 1, Chapter 5, Session Laws of Wyoming 1965, relating to a petition for the adoption of minor children; to amend and re-enact Section 1-712, Wyoming Statutes 1957, relating to the right of the natural parents of a minor child who has been adopted; to amend and re-enact Section 1-713, Wyoming Statutes 1957, relating to an investigation by the court into the qualifications of adopting parents; to amend and re-enact Section 1-721, Wyoming Statutes 1957 as amended and re-enacted by Section 1, Chapter 74, Session Laws of Wyoming 1969, relating to the assumption by a person adopted of the surname of the adoptive parents, and to other legal rights acquired by persons who are adopted; to amend and re-enact Section 1-722, Wyoming Statutes 1957, relating to the adoption of children who have remained in the Wyoming state children's home for a period of one year; to amend and re-enact Section 1-723, Wyoming Statutes 1957, relating to the consent by the state board of charities and reform to the adoption of children committed to the Wyoming state children's home; to amend and re-enact Section 1-724, Wyoming Statutes 1957, relating to the discretion of the district court in refusing to enter an order of adoption; to amend and re-enact Section 1-951, Wyoming Statutes 1957, relating to the powers of a guardian to act in the stead of his ward; to amend and re-enact Section 1-970, Wyoming Statutes 1957, relating to the rights of occupying claimants of real estate in quiet title actions; to amend and re-enact Section 2-27, Wyoming Statutes 1957, relating to the appointment of an attorney to represent minors having no guardian in the probate of estates; to amend and re-enact Section 2-84, Wyoming Statutes 1957, relating to the issuance of a citation to executors, administrators, legatees, and devisees; to amend and re-enact Section 2-111, Wyoming Statutes 1957, relating to the procedure to be followed when a minor is named executor in a will; to amend and re-enact Section 2-210, Wyoming Statutes