

herein is safe or efficacious. [C50, 54, 58, 62, 66, 71, §203A.14]

Referred to in §203A.15

203A.15 Regulations by board.

1. The authority to promulgate regulations for the efficient enforcement of this chapter is hereby vested in the board. The board is hereby authorized to make the regulations promulgated under this chapter conform, insofar as practicable, with those promulgated under the federal Act.

2. Hearings authorized or required by this chapter shall be conducted by the board or such officer, agent or employee as the board may designate for the purpose.

3. Before promulgating any regulations contemplated by section 203A.10, subsections 2, 4, 5, 6, 7, 8, 11 and 13, or section 203A.14, subsection 2, the board shall give appropriate notice of the proposal and of the time and place for a hearing. [C50, 54, 58, 62, 66, 71, §203A.15]

203A.16 Authority of board. The board or its duly authorized agent shall have free access at all reasonable hours to any factory, warehouse, or establishment, in which drugs, devices, or cosmetics are manufactured, processed, packed, or held for introduction into commerce, or to enter any vehicle being used to transport or hold such drugs, devices, or cosmetics in commerce, for the purpose:

1. Of inspecting such factory, warehouse, establishment, or vehicle to determine if any of the provisions of this chapter are being violated; and

2. To secure samples of any drug, device, or cosmetic after paying or offering to pay for

such sample. It shall be the duty of the board to make or cause to be made examinations of samples secured under the provisions of this section to determine whether or not any provision of this chapter is being violated. [C50, 54, 58, 62, 66, 71, §203A.16]

Referred to in §203A.3(6)

203A.17 Dissemination of information.

1. The board may cause to be published from time to time reports summarizing all judgments, decrees, and court orders which have been rendered under this chapter, including the nature of the charge and the disposition thereof.

2. The board may also cause to be disseminated such information regarding drugs, devices, and cosmetics as the board deems necessary in the interest of the public health and the protection of the consumer against fraud. Nothing in this section shall be construed to prohibit the board from collecting, reporting, and illustrating the results of the investigations of the board. [C50, 54, 58, 62, 66, 71, §203A.17]

203A.18 Analysis by state chemist. Any analysis of drugs, devices, or cosmetics deemed necessary by the board in the enforcement of this chapter shall be made by the state chemist when requested by said board. [C50, 54, 58, 62, 66, 71, §203A.18]

203A.19 Exception to chapter. The provisions of this chapter shall not apply to any person, firm or corporation subject to the federal Food, Drug and Cosmetics Act. [C50, 54, 58, 62, 66, 71, §203A.19]

Constitutionality, 53GA, ch 90, §20

CHAPTER 204

Ch. 204. Drug abuse authority
Ch. 181—1st 65 GA
Termination, see §24, Ch. 181

UNIFORM CONTROLLED SUBSTANCES (DRUGS)

Chapters 204 and 204A, Code 1971, repealed by 64GA, ch 148, §605 (Prior rights preserved)

Referred to in §§147.99, 155.13(2), 159.6(11), 189.2, 205.3, 205.11, 205.12, 205.13

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DIVISION I

204.101 Definitions. As used in this chapter

1 “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

a A practitioner, or in his presence by his authorized agent, or

b The patient or research subject at the direction and in the presence of the practitioner

Nothing contained in this chapter shall be construed to prevent a physician dentist or veterinarian from delegating the administration of controlled substances under this chapter to a nurse or intern, or, as to veterinarians to an orderly or assistant, under his direction and supervision, all pursuant to rules and regulations adopted by the board

2 ‘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

3 ‘Bureau’ means the bureau of narcotics and dangerous drugs, United States department of justice or its successor agency

4 ‘Board’ means the state board of pharmacy examiners

5 “Department” means the department of public safety of the state of Iowa

6 “Controlled substance” means a drug substance, or immediate precursor in schedules I through V of division II of this chapter

Referred to in §§80 27 155 30, 155 34 169 36(7) 224A 1(3) 279 9 657 2, 732 8

7 “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

Referred to in §80 27

8 ‘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

9 ‘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

10 “Dispenser” means a practitioner who dispenses

11 “Distribute” means to deliver other than by administering or dispensing a controlled substance

12 ‘Distributor’ means a person who distributes

13 ‘Drug’ means

a Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them,

b Substances intended for use in the diagnosis, cure, mitigation treatment, or prevention of disease in man or animals

c Substances, other than food, intended to affect the structure or any function of the body of man or animals, and

d Substances intended for use as a component of any article specified in paragraphs

a b or ‘c’ of this subsection It does not include devices or their components, parts, or accessories

14 “Immediate precursor” means a substance which the board 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 con

trol of which is necessary to prevent, curtail, or limit manufacture.

15. "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction 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:

a. By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice, or

b. 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.

16. "Marijuana" means all parts of the plant *Cannabis sativa* L., whether growing or not, its seeds, 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 of the plant which is incapable of germination.

17. "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:

a. Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

b. Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph "a", but not including the isoquinoline alkaloids of opium.

c. Opium poppy and poppy straw.

d. 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.

18. "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 204.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextro-methorphan). It does include its racemic and levorotatory forms.

19. "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

20. "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

21. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

22. "Practitioner" means either:

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

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

23. "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

24. "State," when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession, and any area subject to the legal authority of the United States of America.

25. "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. [C51,§2728; R60,§4374; C73,§4038; C97, §2593; S13,§§2593, 2596-a; C24, 27, 31, 35,§3151; C39,§§3169.01, 3169.07; C46, 50, 54, 58, 62, 66, §§201.1, 204.7; C71,§§204.1, 204.7, 204A.1; 64GA, ch 148,§101]

Referred to in §§80.27, 155.30, 155.34, 169.36(7), 224A.1(3), 279.9, 368.7(9), 657.2, 732.8, 745.15

204.101 Amend
Ch 1143, §§12,13—65 GA

DIVISION II
STANDARDS AND SCHEDULES

204.201 Duty to recommend changes in schedules.

1. The board shall administer the regulatory provisions of this chapter. Annually, within thirty days after the convening of each regular session of the general assembly, the board shall recommend to the general assembly any deletions from, or revisions in the schedules of substances, enumerated in sections 204.204, 204.206, 204.208, 204.210 or 204.212, which it deems necessary or advisable. In making a recommendation to the general assembly regarding a substance, the board shall consider the following:

a. The actual or relative potential for abuse;

b. The scientific evidence of its pharmacological effect, if known;

c. State of current scientific knowledge regarding the substance;

d. The history and current pattern of abuse;

e. The scope, duration, and significance of abuse;

f. The risk to the public health;

g. The potential of the substance to produce psychic or physiological dependence liability; and

h. Whether the substance is an immediate precursor of a substance already controlled under this division.

2. After considering the above factors, the board shall make a recommendation to the general assembly, specifying the change which should be made in existing schedules, if it finds that the potential for abuse or lack thereof of the substance is not properly reflected by the existing schedules.

3. If the board 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. Such designations shall be made pursuant to the procedures of chapter 17A.

4. If any new substance is designated as a controlled substance under federal law and notice of the designation is given to the board, the board shall similarly designate as controlled the new substance under this chapter after the expiration of thirty days from publication in the Federal Register of a final order designating a new substance as a controlled substance, unless within that thirty-day period the board objects to the new designation. In that case the board shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing the board shall announce its decision. Upon publication of objection to a new substance being designated as a controlled substance under this chapter by the board, control under this chapter is stayed until the board publishes its decision. If a substance is designated as controlled by the board under this paragraph the control shall be temporary and, if within sixty days after the next regular session of the general assembly convenes it has not made the corresponding changes in this chapter, the temporary designation of control of the substance by the board shall be nullified. [64GA, ch 148,§201, ch 149,§17]

Referred to in §204.101(18)

204.202 Controlled substances — listed regardless of name. The controlled substances listed in the schedules in sections 204.204, 204.206, 204.208, 204.210 and 204.212 are included by whatever official name, common or usual name, chemical name, or trade name is designated. [64GA, ch 148,§202]

204.203 Substances listed in schedule I—criteria. The board shall recommend to the general assembly that it place in schedule I

any substance not already included therein if the board finds that the substance:

1. Has high potential for abuse; and

2. Has no accepted medical use in treatment in the United States; or lacks accepted safety for use in treatment under medical supervision.

If the board finds that any substance included in schedule I does not meet these criteria, it shall recommend that the general assembly place the substance in a different schedule or remove it from the list of controlled substances, as appropriate. [64GA, ch 148,§203]

204.204 Schedule I—substances included.

1. The controlled substances listed in this section are included in schedule I.

2. 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 these isomers, esters, ethers and salts is possible within the specific chemical designation:

- a. Acetylmethadol.
- b. Allylprodine.
- c. Alphacetylmethadol.
- d. Alphameprodine.
- e. Alphamethadol.
- f. Benzethidine.
- g. Betacetylmethadol.
- h. Betameprodine
- i. Betamethadol.
- j. Betaprodine.
- k. Clonitazene.
- l. Dextromoramide.
- m. Dextrophan.
- n. Diampromide.
- o. Diethylthiambutene.
- p. Dimenoxadol.
- q. Dimepheptanol.
- r. Dimethylthiambutene.
- s. Dioxaphetyl butyrate.
- t. Dipipanone.
- u. Ethylmethylthiambutene.
- v. Etonitazene
- w. Etixeridine
- x. Furethidine
- y. Hydroxypethidine.
- z. Ketobemidone.
- aa. Levomoramide.
- ab. Levophenacylmorphin.
- ac. Morpheridine.
- ad. Noracymethadol.
- ae. Norlevorphanol.
- af. Normethadone.
- ag. Norpipanone.
- ah. Phenadoxone.
- ai. Phenampromide.
- aj. Phenomorphan.
- ak. Phenoperidine.
- al. Piritramide.
- am. Proheptazine.
- an. Properidine.
- ao. Racemoramide.
- ap. Trimeperidine.

3. 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:

- a. Acetorphine.
- b. Acetyldihydrocodeine.
- c. Benzylmorphine.
- d. Codeine methylbromide.
- e. Codeine-N-Oxide.
- f. Cyprenorphine.
- g. Desomorphine.
- h. Dihydromorphine.
- i. Etorphine.
- j. Heroin.
- k. Hydromorphinol.
- l. Methyl-desorphine.
- m. Methyl-dihydromorphine.
- n. Morphine methylbromide.
- o. Morphine methylsulfonate.
- p. Morphine-N-Oxide.
- q. Myrophine.
- r. Nicocodeine.
- s. Nicomorphine.
- t. Normorphine.
- u. Phoclodine.
- v. Thebacon.

4. 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:

- a. 3,4-methylenedioxy amphetamine.
- b. 5-methoxy-3,1-methylenedioxy amphetamine.
- c. 3, 4, 5-trimethoxy amphetamine.
- d. Bufotenine.
- e. Diethyltryptamine.
- f. Dimethyltryptamine.
- g. 4-methyl-2, 5-dimethoxy amphetamine.*
- h. Ibogaine.
- i. Lysergic acid diethylamide.
- j. Marijuana.
- k. Mescaline.
- l. Peyote, except as otherwise provided in subsection 5 of this section.
- m. N-ethyl-3-piperidyl benzilate.
- n. N-methyl-3-piperidyl benzilate.
- o. Psilocybin.
- p. Psilocyn.
- q. Tetrahydrocannabinols.

5. Nothing in this chapter shall apply to peyote when used in bona fide religious ceremonies of the Native American Church; however, persons supplying the product to the church shall register, maintain appropriate records of receipts and disbursements of peyote, and otherwise comply with all applicable requirements of this chapter and regulations adopted pursuant thereto. [64GA, ch 148, §204]

Referred to in §§204 201(1), 204 202, 204 203

*According to enrolled act

204.205 Substances listed in schedule II — criteria. The board shall recommend to the general assembly that it place in schedule II

any substance not already included therein if the board finds that:

1. The substance has high potential for abuse;
2. The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and
3. Abuse of the substance may lead to severe psychic or physical dependence.

If the board finds that any substance included in schedule II does not meet these criteria, it shall recommend that the general assembly place the substance in a different schedule or remove it from the list of controlled substances, as appropriate. [64GA, ch 148, §205]

204.206 Schedule II — substances included.

1. The controlled substances listed in this section are included in schedule II.

2. Narcotic drugs as defined in this chapter, except those narcotic drugs listed in other schedules.

3. 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 within the specific chemical designation:

- a. Alphaprodine.
- b. Anileridine.
- c. Bezitramide.
- d. Dihydrocodeine.
- e. Diphenoxylate.
- f. Fentanyl.
- g. Isomethadone.
- h. Levomethorphan.
- i. Levorphanol.
- j. Metazocine.
- k. Methadone.
- l. Methadone - Intermediate, 4 - cyano - 2 - dimethylamino 1, - 4 - diphenyl butane.
- m. Moramide - Intermediate, 2-methyl-3-morpholino-1,1-diphenyl-propane-carboxylic acid.
- n. Pethidine.
- o. Pethidine - Intermediate - A, 4-cyano-1-methyl-4-phenylpiperidine.
- p. Pethidine - Intermediate - B, ethyl-4-phenylpiperidine-4-carboxylate.
- q. Pethidine - Intermediate - C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.
- r. Phenazocine.
- s. Piminodine.
- t. Racemethorphan.
- u. Racemorphan.

4. Unless specifically excepted or unless listed in another schedule, any injectable liquid which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

5. 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 stimulant effect on the central nervous system:

a. Amphetamine, its salts, optical isomers, and salts of its optical isomers.

b. Methamphetamine, its salts, and salts of its isomers.

c. Phenmetrazine and its salts.

d. Methyphenidate.

[64GA, ch 148, §206, ch 1053, §1]

Referred to in §§204.201(1), 204.202, 204.303

204.207 Substances listed in schedule III—criteria.

The board shall recommend to the general assembly that it place in schedule III any substance not already included therein if the board finds that:

1. The substance has a potential for abuse less than the substances listed in schedules I and II;

2. The substance has currently accepted medical use in treatment in the United States; and

3. Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

If the board finds that any substance included in schedule III does not meet these criteria, it shall recommend that the general assembly place the substance in a different schedule or remove it from the list of controlled substances, as appropriate. [64GA, ch 148, §207]

204.208 Schedule III—substances included.

1. The controlled substances listed in this section are included in schedule III.

2. 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:

a. 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.

b. Chlorhexadol.

c. Glutethimide.

d. Lysergic acid.

e. Lysergic acid amide.

f. Methyprylon.

g. Phencyclidine.

h. Sulfondiethylmethane.

i. Sulfonethylmethane.

j. Sulfonmethane.

3. Nalorphine.

4. Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

a. Not more than one point eighty grams of codeine, or any of its salts, per one hundred milliliters or not more than ninety milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

b. Not more than one point eighty grams of

milliliters or not more than ninety milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

c. Not more than three hundred milligrams of dihydrocodeinone, or any of its salts, per one hundred milliliters or not more than fifteen milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

d. Not more than three hundred milligrams of dihydrocodeinone, or any of its salts, per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

e. Not more than one point eighty grams of dihydrocodeine, or any of its salts, per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

f. Not more than three hundred milligrams of ethylmorphine, or any of its salts, per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts.

g. Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams, or not more than twenty-five milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

h. Not more than fifty milligrams of morphine, or any of its salts, per one hundred milliliters or per one hundred grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

5. The board by rule may except any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections 2 and 3 of this section from the application of all or any part of this chapter 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 such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system. [64GA, ch 148, §208, ch 1053, §2]

Referred to in §§204.201(1), 204.202, 204.303

204.209 Substances listed in schedule IV—criteria. The board shall recommend to the general assembly that it place in schedule IV any substance not already included therein if the board finds that:

1. The substance has a low potential for abuse relative to the substances listed in schedule III;

2. The substance has currently accepted medical use in treatment in the United States; and

3. Abuse of the substance may lead to limited physical dependence or psychological de-

pendence relative to the substances listed in schedule III.

If the board finds that any substance included in schedule IV does not meet these criteria, it shall recommend that the general assembly place the substance in a different schedule or remove it from the list of controlled substances, as appropriate. [61GA, ch 148,§209]

204.210 Schedule IV—substances included.

1. The controlled substances listed in this section are included in schedule IV.

2. Any 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:

- a. Barbital.
- b. Chloral betaine.
- c. Chloral hydrate.
- d. Ethchlorvynol.
- e. Ethinamate.
- f. Methohexital.
- g. Meprobamate.
- h. Methylphenobarbital.
- i. Paraldehyde.
- j. Petrichloral.
- k. Phenobarbital.

3. Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which shall include one or more nonnarcotic 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:

a. Not more than one hundred milligrams of dihydrocodeine, or any of its salts, per one hundred milliliters or per one hundred grams;

b. Not more than one hundred milligrams of ethylmorphine, or any of its salts, per one hundred milliliters or per one hundred grams;

c. Not more than two point five milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit;

d. Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams.

4. The board by rule may except any compound, mixture, or preparation containing any depressant substance listed in subsection 2 from the application of all or any part of this chapter 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 substances which have a depressant effect on the central nervous system. [64GA, ch 148,§210]

Referred to in §§204.201(1), 204.202, 204.303

204.211 Schedule V—criteria. The board shall recommend to the general assembly that it place in schedule V any substance not already included therein if the board finds that:

1. The substance has a low potential for abuse relative to the substances listed in schedule IV;

2. The substance has currently accepted medical use in treatment in the United States; and

3. The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in schedule IV.

If the board finds that any substance included in schedule V does not meet these criteria, it shall recommend that the general assembly place the substance in a different schedule or remove it from the list of controlled substances, as appropriate. [64GA, ch 148,§211]

204.212 Schedule V—substances included.

1. The controlled substances listed in this section are included in schedule V.

2. Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which shall include one or more nonnarcotic 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. Not more than two hundred milligrams of codeine, or any of its salts, per one hundred milliliters or per one hundred grams. [61GA, ch 148,§212]

Referred to in §§204.201(1), 204.202, 204.303

DIVISION III

REGULATION OF MANUFACTURE, DISTRIBUTION AND DISPENSING OF CONTROLLED SUBSTANCES

204.301 Rules. The board may, subject to chapter 17A, promulgate rules and charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this state. [64GA, ch 148,§301]

204.302 Registration requirements.

1. 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, shall obtain annually a registration issued by the board in accordance with its rules.

2. Persons registered by the board under this chapter 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 division.

3. The following persons need not register and may lawfully possess controlled substances under this chapter:

a. 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 business or employment.

b. 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.

c. An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in possession of a schedule V substance.

4. A separate registration is required for each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

5. The board may inspect the establishment of a registrant or applicant for registration in accordance with the board's rules. [C24, 27, 31, 35, §3155; C39, §§3169.03, 3169.12; C46, 50, 54, 58, 62, 66, 71, §§204.03, 204.12; 64GA, ch 148, §302]

204.303 Registration.

1. The board shall register an applicant to manufacture or distribute controlled substances included in sections 204.201, 204.206, 204.208, 204.210 and 204.212 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 all of the following factors:

a. Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels.

b. Compliance with applicable state and local law.

c. Any convictions of the applicant under any federal and state laws relating to any controlled substance.

d. Past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion.

e. Furnishing by the applicant of false or fraudulent material in any application filed under this chapter.

f. Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law.

g. Any other factors relevant to and consistent with the public health and safety.

2. Registration under subsection 1 of this section does not entitle a registrant to manufacture and distribute controlled substances in schedule I or II other than those specified in the registration.

3. Practitioners shall 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 division for practitioners engaging in research with nonnarcotic controlled substances in schedules II through V where the registrant is already registered under this division in another capacity. Practitioners registered under federal law to conduct research

with schedule I substances may conduct research in schedule I substances within this state upon furnishing the board evidence of the federal registration.

4. Compliance by manufacturers and distributors with the provisions of the federal law respecting registration, excluding fees, entitles them to be registered under this chapter. [64GA, ch 148, §303]

204.304 Revocation and suspension of registration.

1. A registration under section 204.303 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the board upon a finding that the registrant:

a. Has furnished false or fraudulent material information in any application filed under this chapter;

b. Has had his federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances; or

c. Has been convicted of a public offense under any state or federal law relating to any controlled substance. For the purpose of this section only, a conviction shall include a plea of guilty, a forfeiture of bail or collateral deposited to secure a defendant's appearance in court which forfeiture has not been vacated, or a finding of guilt in a criminal action even though the entry of the judgment or sentence has been withheld and the individual placed on probation.

2. 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.

3. 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, 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 such controlled substances may be forfeited to the state.

4. The board shall promptly notify the bureau and the department of all orders suspending or revoking registration and all forfeitures of controlled substances. [C39, §3169.04; C46, 50, 54, 58, 62, 66, 71, §204.4; 64GA, ch 148, §304]

Referred to in §204.305

204.305 Order to show cause.

1. 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 con-

tain 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 thirty 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 thirty days before the expiration of the registration. These proceedings shall be conducted 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.

2 The Board, without an order to show cause, may suspend any registration simultaneously with the institution of proceedings under section 204.304, or where renewal of registration is refused, if it finds that there is an 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 the district or supreme court. [64GA, ch 148,§305]

204.306 Records of registrants. Persons registered to manufacture, distribute, dispense, or administer controlled substances under this chapter shall keep records and maintain inventories in conformance with the record keeping and inventory requirements of federal law and with such additional rules as may be issued by the board. A practitioner who engages in dispensing any controlled substance to his patients shall keep records of receipt and disbursements of such drugs, including dispensing or other disposition, and information as to controlled substances stolen, lost, or destroyed. In every such case the records of controlled substance received shall show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received. The record of all controlled substances dispensed or otherwise disposed of, shall show the date of dispensing, the name and address of the person to whom or for whose use, or the owner and species of animal for which the drugs were dispensed and the kind and quantity of drugs dispensed.

Every such record shall be kept for a period of two years from the date of the transaction recorded. Records of controlled substances lost, destroyed or stolen, shall contain a detailed list of the kind and quantity of such drugs and the date of the discovery of such loss, destruction, or theft. [C39,§3169.09; C46, 50, 54, 58, 62, 66,§204.9; C71,§§204.9, 204A.4; 64GA, ch 148,§306, ch 149,§18]

Referred to in §'04 308

204.307 Order forms. 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. [C24, 27, 31, 35,§§3154, 3155; C39,§~169.05; C46, 50, 54, 58, 62, 66, 71,§204.5; 64GA, ch 148,§307]

204.308 Prescriptions.

1. 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.

2. In emergency 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 204.306. No prescription for a schedule II substance may be refilled.

3. 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 section 155.3, subsections 9 and 10, shall not be dispensed without a written or oral prescription of a practitioner. The prescription may not be filled or refilled more than six months after the date thereof or be refilled more than five times, unless renewed by the practitioner.

4. A controlled substance included in schedule V shall not be distributed or dispensed other than for a medical purpose [C39,§3169.06; C46, 50, 54, 58, 62, 66,§204.6; C71,§§204.6, 204A.7; 64GA, ch 148,§308]

Referred to in §204.402

DIVISION IV OFFENSES AND PENALTIES

204.401 Prohibited acts — manufacturers — possessors—counterfeit substances—penalties.

1. Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance, or to act with, enter into a common scheme or design with, or conspire with one or more other persons to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance.

Any person who violates this subsection with respect to:

a. A substance classified in schedule I or II which is a narcotic drug, is guilty of a public offense and upon conviction shall be punished by imprisonment in the penitentiary for not to exceed ten years and by a fine of not more than two thousand dollars.

b. Any other controlled substance classified in schedules I, II, or III, is guilty of a public offense and upon conviction shall be punished by imprisonment in the penitentiary for not to exceed five years and by a fine of not more than one thousand dollars.

c. A substance classified in schedule IV, is guilty of a public offense and upon conviction shall be punished by imprisonment in the county jail for not to exceed one year or by a fine of not more than five hundred dollars, or by both such imprisonment and fine.

d. A substance classified in schedule V, is guilty of a public offense and upon conviction shall be punished by imprisonment in the

204.305(2) Amend 7-1-75
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county jail for not to exceed six months or by a fine of not more than two hundred fifty dollars, or both such imprisonment and fine.

Referred to in §247.20

2. Except as authorized by this chapter, it is unlawful for any person to create, deliver, or possess with intent to deliver, a counterfeit substance, or to act with, enter into a common scheme or design with, or conspire with one or more other persons to create, deliver, or possess with intent to deliver, a counterfeit substance.

Any person who violates this subsection with respect to:

a. A counterfeit substance classified in schedule I or II which is a narcotic drug, is guilty of a public offense and upon conviction shall be punished by imprisonment in the penitentiary for not to exceed ten years, and by a fine of not more than two thousand dollars.

b. Any other counterfeit substance classified in schedules I, II, or III, is guilty of a public offense and upon conviction shall be punished by imprisonment in the penitentiary for not to exceed five years and by a fine of not more than one thousand dollars.

c. A counterfeit substance classified in schedule IV, is guilty of a public offense and upon conviction shall be punished by imprisonment in the county jail for not to exceed one year or by a fine of not more than five hundred dollars, or by both such imprisonment and fine.

d. A counterfeit substance classified in schedule V, is guilty of a public offense and upon conviction shall be punished by imprisonment in the county jail for not to exceed six months or by a fine of not more than two hundred fifty dollars, or by both such imprisonment and fine.

Referred to in §247.20

3. It is unlawful for any person knowingly or intentionally to possess a controlled substance unless such 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 chapter. Any person who violates this subsection is guilty of a misdemeanor, and upon conviction shall be punished by imprisonment in the county jail for not to exceed one year, or by a fine of not more than one thousand dollars, or both such imprisonment and fine. If the controlled substance is marijuana, the punishment shall be by imprisonment in the county jail for not more than six months or by a fine of not more than one thousand dollars, or by both such fine and imprisonment. All or any part of a sentence imposed pursuant to this section may be suspended and the person placed upon probation upon such terms and conditions as the court may impose including the active participation by such person in a drug treatment, rehabilitation or education program approved by the court. [C51,§2728; R60,§4374; C73,§4038; C97,§§2593, 5003; S13, §§2593, 2596-a; C24, 27, 31, 35,§§3152, 3168, 3169;

C39,§§3169.02, 3169.21; C46, 50, 54, 58, 62,§§204.2, 204.22; C66,§204.2, 201.20; C71,§§204.2, 204.20, 201A.3, 201A.10; 64GA, ch 148,§401, ch 149,§19]

Referred to in §§204.406, 204.409(1), 204.410, 204.411

204.402 Prohibited acts—distributors—registrants—proprietors—penalties.

1. It is unlawful for any person:

a. Who is subject to division III to distribute or dispense a controlled substance in violation of section 204.308;

b. 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;

c. To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under this chapter;

d. To refuse an entry into any premises during reasonable business hours for any inspection authorized by this chapter; or

e. Knowingly to keep or permit the keeping or to maintain any premises, store, shop, warehouse, dwelling, temporary, or permanent building, vehicle, boat, aircraft, or other temporary or permanent structure or place, which is resorted to by persons using controlled substances in violation of this chapter for the purpose of using these substances, or which is used for keeping, possessing or selling them in violation of this chapter.

2. Any person who violates subsection 1 of this section, or who acts with, enters into a common scheme or design with, or conspires with one or more other persons to violate subsection 1 of this section, is guilty of a public offense and upon conviction:

a. Of a violation of paragraphs "a", "b", "d", or "e" shall be punished by imprisonment in the penitentiary for not to exceed one year, or by a fine of not more than one thousand dollars, or both such imprisonment and fine.

b. Of a violation of paragraph "c" shall be punished by a fine of not more than five hundred dollars if the conviction is the defendant's first under this chapter or under any state or federal statute relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, and by imprisonment in the penitentiary for not to exceed one year, or by a fine of not more than one thousand dollars, or both such imprisonment and fine if the defendant has previously been so convicted. [64GA, ch 148,§402]

204.403 Prohibited acts — controlled substances, distribution, use, possession—records and information—penalties.

1. It is unlawful for any person knowingly or intentionally:

a. To distribute as a registrant a controlled substance classified in schedules I or II, except pursuant to an order form as required by section 204.307;

b. 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;

c. To acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge;

d. 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 chapter, or any record required to be kept by this chapter; or

e. 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.

2. Any person who violates this section, or who acts with, enters into a common scheme or design with, or conspires with one or more other persons to violate this section, is guilty of a public offense and upon conviction shall be punished by imprisonment in the penitentiary for not to exceed one year and by a fine of not more than one thousand dollars. [C39, §3169.17; C16, 50, 51, 58, 62, §204.18; C66, §204.17; C71, §§204.17, 204A.3; 64GA, ch 148, §403]

204.404 Penalties under other laws. Any penalty imposed for violation of this division shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law. [64GA, ch 148, §404]

204.405 Bar to prosecution. If a violation of this chapter is a violation of a federal law or the law of another state, the conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state. [C39, §3169.22; C46, 50, 51, 58, 62, §204.23; C66, 71, §204.21; 64GA, ch 148, §405]

204.406 Distribution to persons under age eighteen. Any person who is eighteen years of age or over who violates section 204.401, subsection 1, by distributing a substance listed in schedule I or II, which is a narcotic drug, to a person under eighteen years of age, shall be punished by a fine and by a term of imprisonment not to exceed twice that authorized by section 204.401, subsection 1, paragraph "a". Any person who is eighteen years of age or over who violates section 204.401, subsection 1, by distributing any other controlled substance listed in schedules I, II, III, IV, or V to a person under eighteen years of age who is at least three years his junior shall be punished by a fine not to exceed that authorized by section 204.401, subsection 1, paragraph "b" or "c", or by a term of imprisonment not to exceed one and one-half times that authorized by section 204.401, subsection 1, paragraph "b" or "c", or by both such fine and imprisonment. [C97, §5003; C24, 27, 31, 35, §§3168, 3169; C39, §3169.21; C46, 50, 54, 58, 62, §204.22; C66, §204.20; C71, §204.20, 204A.11; 64GA, ch 148, §406]

204.407 Gatherings where controlled substances unlawfully used—penalties. It is unlawful for any person to sponsor, promote, or aid, or assist in the sponsoring or promoting of a meeting, gathering, or assemblage with the knowledge or intent that a controlled substance be there distributed, used or possessed, in violation of this chapter.

Court appointed attorney fees incurred in the defense of any person charged with a felony under this section shall be taxed as part of the costs against the defendants who are found guilty. If the defendant does not discharge such costs within ninety days, the county paying such costs may seek indemnification therefor from the Iowa general assembly. A county may also seek indemnification from the general assembly of court appointed attorney fees incurred in the defense of any person charged with a felony under this section who was found not guilty.

Any person who violates this section and where the controlled substance is any one other than marijuana is guilty of a public offense and upon conviction shall be punished by imprisonment in the penitentiary for not to exceed five years or by a fine of not to exceed ten thousand dollars or by both such imprisonment and fine.

Any person who violates this section, and where the controlled substance is marijuana only, is guilty of a public offense and upon conviction shall be punished by imprisonment in the county jail for not to exceed one year or by a fine of not to exceed one thousand dollars or by both such fine and imprisonment.

The district court shall grant an injunction barring a meeting, gathering, or assemblage if upon hearing the court finds that the sponsors or promoters of the meeting, gathering, or assemblage have not taken reasonable means to prevent the unlawful distribution, use or possession of a controlled substance. Further injunctive relief may be granted against all persons furnishing goods or services to such meeting, gathering, or assemblage.

The district court may, upon application and a showing of one or more of the grounds provided in section 639.3, grant to the state or governmental subdivision thereof a writ of attachment, ex parte, without bond, in an amount necessary to secure the payment of any fine that may be imposed and the payment of costs. The reasonable expense to the state and governmental subdivisions thereof to provide the necessary law enforcement resulting from a meeting, gathering or assemblage held in violation of this section may be taxed as costs in the criminal action.

Court costs and court-appointed attorney fees incurred in the prosecution of any person charged with violation of this chapter shall be taxed against the defendants who are found guilty of violating this section. If no defendant is found guilty of violating this section, or if the court costs and court-appointed attorney fees are not satisfied by the defendants, the

court costs and court-appointed attorney fees shall be paid by the state of Iowa. [64GA, ch 148, §107, ch 149, §22]

204.408 Joint criminal trials. Information, indictments, trial, and sentencing for violations of this chapter may allege any number of violations of their provisions against one person and join one or more persons as defendants who it is alleged violated the same provisions in the same transaction or series of transactions and which involve common questions of law and fact. The several charges shall be set out in separate counts and each accused person shall be convicted or acquitted upon each count by separate verdict. Each accused person shall thereafter be sentenced upon each verdict of guilty. The court may consider such separate verdicts of guilty returned at the same time as one offense for the purpose of sentencing as provided in this chapter. The court may grant a severance and separate trial to any accused person jointly charged or indicted if it appears that substantial injustice would result to such accused person unless a separate trial was granted. [64GA, ch 148, §108]

204.409 Conditional discharge, commitment for treatment, probation, parole.

1. Whenever any person who has not previously been convicted of any offense under this chapter or any offense under any state or federal statute relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under section 204.401, subsection 3, or is sentenced pursuant to section 204.410, 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 as it requires. When a person is placed on probation under this subsection, his appearance bond may be discharged at the discretion of the court. 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 court 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 204.410. Discharge and dismissal under this section may occur only once with respect to any person.

2. Whenever the court finds that a person who is charged with a violation of section 204.401 and who consents thereto, or who has entered a plea of guilty to or been found guilty of a violation of said section, and who is addicted to, dependent upon, or a chronic abuser of any controlled substance and that such per-

son will be aided by proper medical treatment and rehabilitative services, it may order that he be committed as an in-patient or out-patient to a facility approved by the state department of health for such medical treatment and rehabilitative services. A person committed under this subsection who is not possessed of sufficient income or estate to enable him to make payment of the costs of such treatment in whole or in part shall be considered a state patient. The determination of ability to pay shall be made by the court. The court shall require the patient, or his parent, guardian, or custodian to complete under oath a detailed financial statement. The court may enter appropriate orders requiring the patient or those legally liable for his support to reimburse the state with the costs, or any part thereof. In order to obtain the most effective results from such medical treatment and rehabilitative services, the court may commit such person to the custody of a public or private agency or any other responsible person and impose such other conditions upon such commitment as is necessary to insure compliance with the court's order and to insure that such person will not, during such period of treatment and rehabilitation, again violate any provisions of this chapter. If it is established thereafter to the satisfaction of the court that the person has again violated any provision of this chapter, he may be returned to custody or sentenced upon his conviction as provided by law. The public or private agency or responsible person to whom the accused person was committed by the court shall immediately report to the court when the person has received maximum benefit from the program or has recovered from his addiction, dependency, or tendency to chronically abuse any controlled substance. The person shall then be returned to the court for disposition of his case. If the person has been charged or indicted, but not convicted, such charge shall proceed to trial or final disposition. If the person has been convicted or is thereafter convicted, the court shall sentence him as provided by law but may remit all or any part of such sentence and place the person on probation upon such terms and conditions as the court may prescribe. [64GA, ch 148, §409]

Referred to in §247.20

204.410 Reduced sentence for accommodation offenses. Any person who enters a plea of guilty to or is found guilty of a violation of section 204.401, subsections 1 or 2, may move for and the court shall grant a further hearing at which evidence may be presented by the person, and by the prosecution if it so desires, relating to the nature of the act or acts on the basis of which the person has been convicted. If the convicted person establishes by clear and convincing evidence that he delivered or possessed with intent to deliver a controlled substance only as an accommodation to another individual and not with intent to profit thereby nor to induce the recipient or intended recipient of the controlled or counterfeit sub-

stance to become addicted to or dependent upon the substance, the court shall sentence the person as if he had been convicted of a violation of section 204.401, subsection 3. [64 GA, ch 148, §410]

Referred to in §§204.409, 247 20

204.411 Second or subsequent offenses.

1. Any person convicted of a second or subsequent offense under this chapter, may be punished by imprisonment for a period not to exceed three times the term otherwise authorized, or fined not more than three times the amount otherwise authorized, or punished by both such imprisonment and fine.

2. For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his having been convicted of the offense, the offender has ever been convicted under this chapter or under any state or federal statute relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs.

3. This section does not apply to offenses under section 204.401, subsection 3. [C97, §5003; C24, 27, 31, 35, §§3168, 3169; C39, §3169.21; C46, 50, 54, 58, 62, §204.22; C66, 71, §204.20; 64GA, ch 148, §411]

Referred to in §155.30

204.412 Notice of conviction. Whenever any person enters a plea of guilty to, or forfeits bail or collateral deposited to secure his appearance in court, and such forfeiture is not vacated, or is found guilty upon an indictment or information alleging a violation of this chapter, a copy of the minutes attached to the indictment returned by the grand jury, or to the county attorney's information, a copy of the judgment and sentence, and a copy of the opinion of the judge if one is filed, shall be sent by the clerk of the court or the judge to any state board or officer by whom the convicted person has been licensed or registered to practice his profession or carry on his business. On the conviction of any such person, the court may, in its considered judgment, suspend or revoke the license or registration of the convicted defendant to practice his profession or 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. [C39, §3169.15; C46, 50, 54, 58, 62, §204.16; C66, 71, §204.15; 64GA, ch 148, §412]

DIVISION V

ENFORCEMENT AND ADMINISTRATIVE PROVISIONS

204.501 Responsibility for enforcement. The department shall be primarily responsible for the enforcement of all provisions of this chapter, and all other laws and regulations of this state, relating to controlled or counterfeit substances, except that the board shall be primarily responsible for making accountability audits of the supply and inventory of controlled substances in the possession of pharmacists, doctors, hospitals, and health care facilities as defined in section 135C.1, subsection

8, as well as in the possession of any and all other individuals or institutions authorized to have possession of any controlled substances, and shall also be primarily responsible for such other duties in respect to controlled substances as shall be specifically delegated to the board by law. Any officer or employee of the board may, when so directed or authorized by the board:

1. Execute and serve search warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this state.

2. Make seizures of property pursuant to the provisions of this chapter. [C39, §3169.19; C46, 50, 54, 58, 62, §§204.20, 204.26; C66, 71, §204.19; 64GA, ch 148, §501]

Referred to in §204.502

204.502 Administrative inspections and warrants.

1. Issuance and execution of administrative inspection warrants shall be as follows:

a. A district or municipal court judge, within his jurisdiction, and upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting administrative inspections authorized by this chapter or rule thereunder, 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 the chapter or rules promulgated thereunder, sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant.

b. A warrant shall issue only upon sworn testimony of an officer or employee of the board duly designated and having knowledge of the facts alleged, before the district or municipal court judge, establishing the grounds for issuing the warrant. If the judge 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 testimony has been taken in support thereof.

(2) Be directed to a person authorized by section 204.501 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, if appropriate, and designate the judge to whom it shall be returned.

c. A warrant issued pursuant to this section must be executed and returned within ten

days after its date unless, upon a showing of a need for additional time, the court so instructs otherwise in the warrant. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom the property is seized, or the person in charge of the premises from which the property is seized, a copy of the warrant and a receipt for the property seized or shall leave the copy and receipt at the place from which the property is seized. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property seized. 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 seized, if they are 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 seized and to the applicant for the warrant.

d. The judge who has issued a warrant under this section shall require that there be attached to the warrant a copy of the return, and of all papers filed in connection with the return, and shall file them with the clerk of the district or municipal court for the district in which the inspection was made.

2. The department may make administrative inspections of controlled premises in accordance with the following provisions:

a. For purposes of this section only, "controlled premises" means:

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

(2) Places including factories, warehouse establishments, and conveyances where persons registered or exempted from registration requirements under this chapter are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.

b. Whenever authorized by an administrative inspection warrant issued pursuant to subsection 1 of this section an officer or employee of the board, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, has the right to enter controlled premises for the purpose of conducting an administrative inspection.

c. Whenever authorized by an administrative inspection warrant, an officer or employee of the board has the right:

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

(2) To 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 paragraph "e" of this subsection, all other things therein, including records, files, papers, processes, controls, and facilities bearing on violation of this chapter; and

(3) To inventory any stock of any controlled substance therein and obtain samples of any such substance.

d. This section shall not be construed to prevent the inspection without a warrant of books and records pursuant to a subpoena issued in accordance with section 622.65, nor shall this section be construed to prevent entries and administrative inspections, including seizures of property, without a warrant:

(1) With the consent of the owner, operator, or agent in charge of the controlled premises;

(2) In situations presenting imminent danger to health or safety;

(3) In situations involving inspection of conveyances where 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 circumstance where time or opportunity to apply for a warrant is lacking; and

(5) In all other situations where a warrant is not constitutionally required.

e. Except when the owner, operator, or agent in charge of the controlled premises so consents in writing, no inspection authorized by this section shall extend to financial data; sales data, other than shipment data; or pricing data. [64GA, ch 148, §502]

204.503 Injunctions.

1. The district court may exercise jurisdiction to enjoin violations of this chapter.

2. In case of an alleged violation of an injunction or restraining order issued under this section, upon demand of the defendant, trial shall be by a jury. [64GA, ch 148, §503]

204.504 Co-operative arrangements and confidentiality.

1. The department and board, subject to approval and direction of the governor, shall co-operate with federal and other state agencies in discharging its responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, they may jointly:

a. Arrange for the exchange of information between governmental officials concerning the use and abuse of controlled substances.

b. Co-ordinate and co-operate in training programs on controlled substance law enforcement at the local and state levels.

c. Co-operate with the bureau by establishing a centralized unit which will accept, catalogue, file, and collect statistics, including records of drug dependent persons and other controlled substance law offenders within the state, and make such information available for federal, state and local law enforcement purposes; except that they shall not furnish the name or identity of a patient or research subject whose identity could not be obtained under subsection 3.

d. Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted.

2. Results, information, and evidence received from the bureau relating to the regulatory functions of this chapter, including results of inspections conducted by that agency may be relied upon and acted upon by the board or the department in the exercise of their regulatory functions under this chapter.

3. A practitioner engaged in medical practice or research shall not be required to furnish the name or identity of a patient or research subject to the board or the department, nor shall the practitioner be compelled in any state or local civil, criminal, administrative, legislative or other proceedings to furnish the name or identity of an individual that the practitioner is obligated to keep confidential. [64GA, ch 148,§501]

204.505 Forfeitures.

1. The following are subject to forfeiture:

a. All controlled substances which have been manufactured, distributed, dispensed or acquired in violation of this chapter;

b. 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 substance in violation of this chapter;

c. All property which is used, or intended for use, as a container for property described in paragraphs "a" or "b";

d. 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 chapter.

2. Property subject to forfeiture under this chapter may be seized by the board or department when:

a. The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

b. 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 chapter;

c. The department has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

d. The department has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

3. In the event of seizure pursuant to subsection 2, proceedings under subsection 1 shall be instituted promptly.

4. Property taken, detained, or forfeited under this chapter shall be disposed of in the manner provided in chapter 751 for property seized pursuant to a search warrant, except that controlled substances so taken, detained, or forfeited shall be disposed of as provided by section 204.506. Such property shall not be subject to replevin.

5. Controlled substances classified in schedule I that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and when seized shall be summar-

ily 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.

6. Species of plants from which controlled substances classified in schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the state.

7. The failure, upon demand by the board or department, or its duly authorized agent, of the person in occupancy or in control of land or premises upon which such species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, shall constitute authority for the seizure and forfeiture of the plants.

8. Chapter 127 shall be applicable to conveyances used to transport or hold any controlled substance listed in schedules I, II, III, or IV of this chapter. [64GA, ch 148,§505]

204.506 Controlled substances—disposal. All controlled substances, the lawful possession of which is not established or the title to which cannot be ascertained, or excess or undesired controlled substances, which have come into the custody of the board, the department, or any peace officer, shall be disposed of as follows:

1. Except as otherwise provided in this section, the court having jurisdiction shall order such controlled substances forfeited and destroyed. A record of the place where the controlled substances were seized, of the kinds and quantities of controlled substances so destroyed, and of the time, place, and manner of destruction, shall be kept, and a return under oath, reporting said destruction, shall be made to the court and to the bureau by the officer who destroys them.

2. Upon written application by the board, the court by whom the forfeiture of controlled substances has been decreed may order the delivery of any of them, except controlled substances listed in schedule I, to the board for distribution or destruction, as provided by this section.

3. Upon application by any hospital within this state, not operated for private gain, the board may in its discretion deliver any controlled substances that have come into its custody by authority of this section to the applicant for medicinal use. The board may from time to time deliver excess stocks of controlled substances to the bureau for disposition, or may destroy the excess controlled substances.

4. The board shall keep a full and complete record of all controlled substances received and disposed of, showing the exact kinds, quantities, and forms of controlled substances, the persons from whom received and to whom delivered, by whose authority received, de-

204.504, sub. 3 Amended Ch. 181, §25-1st GA

livered, and destroyed and the dates of the receipt, disposal, or destruction, which record shall be open to inspection by all federal or state officers charged with the enforcement of federal and state laws relating to any controlled substance. [C39,§3169.14; C46, 50, 54, 58, 62,§204.15; C66, 71,§204.14; 64GA, ch 148,§506]

Referred to in §204 505(4)

204.507 Burden of proof—liabilities.

1. It is not necessary for the state to negate any exemption or exception set forth in this chapter in any complaint, information, indictment or other pleading or in any trial, hearing, or other proceeding under this chapter. The proof of entitlement to any exemption or exception by the person claiming its benefit shall be a valid defense.

2. The absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this chapter creates a rebuttable presumption that he is not the holder of such registration or form.

3. No liability shall be imposed by virtue of this chapter upon any authorized state, county or municipal officer, engaged in the lawful performance of his duties. [C24, 27, 31, 35,§3156; C39,§3169.18; C16, 70, 51, 78, 62,§204.19; C66, 71, §204.18; 64GA, ch 148,§507]

204.508 Judicial review. All final determinations, findings and conclusions of the board or department under this chapter shall be final and conclusive decisions of the matters involved, except that any person aggrieved by the decision may obtain review of the decision in the district court. Findings of fact by the board or department, if supported by substantial evidence, are conclusive. [64GA, ch 148,§508]

204.508 R&S 7-1-75
Ch 1090, §§24,115—65 GA

204.509 Education and research.

1. The board and the department, subject to approval and direction of the governor, shall carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. They shall consult with each other and co-ordinate their programs so as to avoid duplication of effort. In connection with these programs they may:

a. Promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;

b. Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;

c. Consult with interested groups and organizations to aid them in solving administrative and organizational problems;

d. Evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances;

e. 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,

f. Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances.

2. The board and the department, subject to approval and direction of the governor, shall encourage research on misuse and abuse of controlled substances. In connection with such research, and in furtherance of the enforcement of this chapter, they may in such manner as will best insure co-ordination and avoid duplication of effort:

a. Establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse;

b. 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 chapter;

(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,

c. 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 substances.

3. The board or department, subject to approval and direction of the governor, may enter into contracts for educational and research activities without performance bonds.

4. The board and department, subject to approval and direction of the governor, may jointly 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 shall not be 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.

5. The board and department, subject to approval and direction of the governor, may jointly authorize the possession and distribution of controlled substances by persons engaged in research. Persons who obtain this authorization are exempt from state prosecution for possession and distribution of controlled substances to the extent of the authorization. [64GA, ch 148,§509]

204.510 Reports of arrests and analyses of department. Any peace officer who arrests for any crime, any known unlawful user of the drugs described in Schedule I, II, III or IV, or who arrests any person for a violation of this

chapter, or charges any person with a violation of this chapter subsequent to the person's arrest, shall within five days after the arrest or the filing of the charge, whichever is later, report the arrest and the charge filed to the department. The peace officer or any other peace officer or law-enforcement agency which makes or obtains any quantitative or qualitative analysis of any substance seized in connection with the arrest of the person charged, shall report to the department the results of the analysis at the time the arrest is reported or at such later time as the results of the analysis become available.

This information is for the exclusive use of the division of narcotic and drug enforcement, in the department of public safety, and shall

not be a matter of public record. [64GA, ch 148,§510, ch 149,§20]

DIVISION VI
MISCELLANEOUS

See 64GA, ch 148, §§601, 602 and 605 for provisions relating to pending proceedings under prior laws and rules.

204.601 Uniformity of interpretation. This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it. [C24, 27, 31, 35, §3167; C39,§31(9.23; C46, 50, 54, 58, 62,§204.24; C66, 71,§204.22; 64GA, ch 148,§603]

204.602 Short title. This chapter may be cited as the "Uniform Controlled Substances Act." [C39,§3169.24; C16, 50, 51, 58, 62,§204.25; C66, 71,§204.23; 64GA, ch 148,§604]

CHAPTER 204A

DEPRESSANT, STIMULANT, COUNTERFEIT AND HALLUCINOGENIC DRUGS

Repealed by 64GA, ch 148,§605

CHAPTER 205

SALE AND DISTRIBUTION OF POISONS

Referred to in §§147.99, 159.6(10), 189.2

General penalty, §189.21

- 205.1 Sale of abortifacients.
- 205.2 Exception.
- 205.3 Prescriptions.
- 205.4 Wood or denatured alcohol.
- 205.5 Regulations as to sales of certain poisons.
- 205.6 Poison register.
- 205.7 Labeling poisons.

- 205.8 Certain sales excepted.
- 205.9 Prohibited sales.
- 205.10 False representations.
- 205.11 Enforcement.
- 205.12 Chemical analysis of drugs.
- 205.13 Applicability of other statutes.

205.1 Sale of abortifacients. No person shall sell, offer or expose for sale, deliver, give away, or have in his possession with intent to sell, except upon the original written prescription of a licensed physician, dentist, or veterinarian, any cotton root, ergot, oil of tansy, oil of savin, or derivatives of any of said drugs. [C51,§2728; R60,§4374; C73,§4038; C97,§2593; S13, §§2593, 2596-a; C24, 27, 31, 35, 39,§3170; C46, 50, 54, 58, 62, 66, 71,§205.1]

Referred to in §205.2

205.2 Exception. The requirements of section 205.1 that certain drugs shall be furnished only upon written prescription, shall not apply to the sale of such drugs to persons who wholesale or retail the same, nor to any licensed physician, dentist, or veterinarian for use in the practice of his profession. [S13,§2596-a; C24, 27, 31, 35, 39,§3171; C46, 50, 54, 58, 62, 66, 71,§205.2]

205.3 Prescriptions. No person shall fill any prescriptions calling for any of the drugs required by chapter 204 or this chapter to be furnished only upon written prescription unless

the same be for medical, dental, or veterinary purposes only, and unless the physician, dentist, or veterinarian prescribing the same be personally known to such person, and no such prescription shall be refilled. [S13,§2596-a; C24, 27, 31, 35, 39,§3172; C46, 50, 54, 58, 62, 66, 71, §205.3]

205.4 Wood or denatured alcohol. No person shall have in his possession or dispose of in any manner any article intended for use of man or domestic animals, for internal or external use, for cosmetic purposes, for inhalation, or for perfumes, which contains methyl (wood) alcohol, crude or refined, or completely denatured alcohol. Nothing in this section shall be construed to apply to specially denatured alcohols the formula of which has been approved and the manufacture and use regulated by the federal government. [S13, §4699 a36; C24, 27, 31, 35, 39,§3173; C46, 50, 54, 58, 62, 66, 71,§205.4]

205.5 Regulations as to sales of certain poisons. It shall be unlawful for any person except a licensed pharmacist to sell at retail