Chapter 474

1957 REPLACEMENT PART

Uniform Narcotic Drug Act

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CROSS REFERENCES

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Narcotic and habit-forming drugs, Ch. 475
Teacher's certificate, revocation or refusal to issue for narcotic violation, 342.060, 342.070

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

(1) "Person" includes any corporation, association, copartnership or one or more individuals.

(2) "Physician" means a person authorized by law to practice medicine in this state and any other person authorized by law to treat sick and injured human beings in this state and to use narcotic drugs in connection with such treatment.

(3) "Dentist" means a person authorized by law to practice dentistry in this state.

(4) "Veterinarian" means a person authorized by law to practice veterinary medicine in this state.

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

(6) "Wholesaler" means a person who supplies narcotic drugs that he himself has not produced or prepared, on official written orders, but not on prescriptions.

(7) "Apothecary" means a licensed pharmacist, as defined by the laws of this state and, where the context so requires, the owner of a store or other place of business where narcotic drugs are compounded or dispensed by a licensed pharmacist; but nothing in this chapter shall be construed as conferring on a person who is not registered or licensed as a pharmacist any authority, right or privilege that is not granted to him by the pharmacy laws of this state.

(8) "Hospital" means an institution for the care and treatment of the sick and injured, approved by the Board of Pharmacy as proper to be entrusted with the custody of narcotic drugs and the professional use of narcotic drugs under the direction of a physician, dentist or veterinarian.

(9) "Laboratory" means a laboratory approved by the Board of Pharmacy as proper to be entrusted with the custody of narcotic drugs and the use of narcotic drugs for scientific and medical purposes and for purposes of instruction.

(10) "Sale" includes barter, exchange or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant or employe.

(11) "Coca leaves" include cocaine and any compound, manufacture, salt, derivative, mixture or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine or substances from which cocaine or ecgonine may be synthesized or made.

(12) "Opium" includes morphine, codeine and heroin, and any compound, manufacture, salt, derivative, mixture or preparation of opium.

(13) "Marihuana" means, and "cannabis" includes all parts of the plant Cannabis Sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.

(14) The term "isonipecaine" means the substance identified chemically as 1-methyl-4-phenylpiperidine-4-carboxylic acid ethyl ester, or any salt thereof by whatever trade name identified.

(15) The term "amidone" means any substance identified chemically as 4-4-diphenyl-6-dimethylaminoheptanone-3, or any salt thereof, by whatever trade name designated.

(16) The term "isoamidone" means any substance identified chemically as 4-4-diphenyl-5-methyl-6-dimethylaminohexanone-3, or any salt thereof, by whatever trade name designated.

(17) The term "keto-bemidone" means any substance identified chemically as 4-(3-hydroxyphenyl)-1-methyl-4-piperidyl ethyl ketone hydrochloride, or any salt thereof, by whatever trade name designated.

(18) "Narcotic drugs" means coca leaves, opium, cannabis and every other substance neither chemically nor physically distinguishable from them; or other drugs to which the federal narcotic laws may now or hereafter apply; or any drug found by the State Board of Pharmacy, after reasonable notice and opportunity for hearing, to have addiction-forming or addiction-sustaining liability similar to morphine or cocaine, from the publication of such finding.

(19) "Federal narcotic laws" means the

laws of the United States relating to opium, coca leaves and other narcotic drugs.

(20) "Official written order" means an order written on a form provided for that purpose by the United States Commissioner of Internal Revenue, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided, then on an official form provided for that purpose by the Board of Pharmacy.

(21) "Dispense" includes distribute, leave with, give away, dispose of or deliver.

(22) "Registry number" means the number assigned to each person registered under the federal narcotic laws. [Amended by 1953 c.342 §3]

474.020 Dealing in narcotics unlawful. (1) It shall be unlawful for any person to manufacture, possess, have under his control, sell, prescribe, administer, dispense or compound any narcotic drug, except as authorized in this chapter.

(2) It shall be unlawful for any person to conspire to commit, or facilitate the commission of any act prohibited by subsection (1) of this section and such person shall, upon conviction, be punished in the same manner prescribed for a person convicted of committing the prohibited act. [Amended by 1957 c.587 §1]

474.030 License needed to cultivate, manufacture or wholesale narcotics. No person shall manufacture, compound, mix, cultivate, grow or by any other process produce or prepare narcotic drugs, and no person as a wholesaler shall supply the same without having first obtained a license so to do from the Board of Pharmacy.

474.040 Persons eligible for license; revocation of license. (1) No license shall be issued under ORS 474.030 unless and until the applicant therefor has furnished proof satisfactory to the Board of Pharmacy:

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

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

(2) No license shall be granted to any person who has within five years been convicted of a wilful violation of any law of the United States, or of any state, relating to opium, coca leaves or other narcotic drugs, or to any person who is a narcotic drug addict. The Board of Pharmacy may suspend or revoke any license for cause.

474.050 Persons eligible to obtain drugs from licensee; procedure for obtaining narcotics and under what conditions they may be dispensed. (1) A duly licensed manufacturer or wholesaler may sell and dispense narcotic drugs to any of the following persons, but only on official written orders:

(a) To a manufacturer, wholesaler or apothecary.

(b) To a physician, dentist or veterinarian.

(c) To a person in charge of a hospital, but only for use by or in that hospital.

(d) To a person in charge of a laboratory, but only for use in that laboratory for scientific and medical purposes.

(2) A duly licensed manufacturer or wholesaler may sell narcotic drugs to any of the following persons:

(a) On a special written order as required by the federal narcotic laws, to a person in the employ of the United States Government or of any state, territorial, district, county, municipal or insular government, purchasing, receiving, possessing or dispensing narcotic drugs by reason of his official duties.

(b) To a master of a ship or a person in charge of any aircraft upon which no physician is regularly employed; or to a physician or surgeon duly licensed in some state, territory or the District of Columbia to practice his profession, or to a retired commissioned medical officer of the United States Army, Navy or Public Health Service, employed upon such ship or aircraft, for the actual medical needs of persons on board such ship or aircraft, when not in port; provided, such narcotic drugs shall be sold to the master of such ship or person in charge of such aircraft, or to a physician, surgeon or retired commissioned medical officer of the United States Army, Navy or Public Health Service, employed upon such ship or aircraft, only in pursuance of a special order form approved by a commissioned medical officer or acting assistant surgeon of the United States Public Health Service.

(c) To a person in a foreign country if the provisions of the federal narcotic laws are complied with.

(3) An official written order for any

narcotic drug shall be signed in triplicate by the person giving said order or by his duly authorized agent. The original and triplicate copy shall be presented to the person who sells or dispenses the narcotic drug or drugs named therein. In event of the acceptance of such order by said person, each party to the transaction shall preserve his copy of such order for a period of two years in such a way as to be readily accessible for inspection by any public officer or employe engaged in the enforcement of this chapter. It shall be deemed a compliance with this subsection if the parties to the transaction have complied with the federal narcotic laws respecting the requirements governing the use of order forms.

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

(5) A person in charge of a hospital or of a laboratory, or in the employ of this state or of any other state, or of any political subdivision thereof, or a master of a ship, or a person in charge of any aircraft, upon which no physician is regularly employed, or a physician or surgeon duly licensed in some state, territory or the District of Columbia, to practice his profession, or a retired commissioned medical officer of the United States Army, Navy or Public Health Service, employed upon such ship or aircraft, who obtains narcotic drugs under the provisions of this section or otherwise, shall not administer nor dispense, nor otherwise use such drugs, within this state, except within the scope of his employment or official duty, and then only for scientific or medicinal purposes and subject to the provisions of this chapter. [Amended by 1957 c.587 §2]

474.060 Sales of narcotics by apothecary. (1) An apothecary, in good faith, may sell and dispense narcotic drugs to any person upon a written prescription of a physician, dentist or veterinarian, properly executed, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address and registry number under the federal narcotic laws of the person prescribing, if he is required by those laws to be so registered. If the prescription be for an animal, it shall state the species of animal for which the drug is prescribed.

(2) Notwithstanding the provisions of subsection (1) of this section, narcotic drugs or compounds of a narcotic drug which possess relatively little or no addiction liability which the State Board of Pharmacy shall find and by regulations designate, after reasonable notice and opportunity for hearing, to possess relatively little or no narcotic addiction liability may be sold and dispensed by an apothecary, in good faith, to any person upon an oral prescription of a physician, dentist or veterinarian. In issuing an oral prescription, the prescriber shall furnish the same information as is required for a written prescription under subsection (1) of this section except for the written signature of the prescriber. Upon receipt of the oral prescription, the person filling the oral prescription shall promptly reduce the oral prescription to writing by recording:

(a) The date when the oral prescription was received.

(b) The full name and address of the patient for whom, or the owner of the animal for which, the drug is dispensed.

(c) The full name, address and registry number under the federal narcotic laws of the person prescribing, if he is required by those laws to be so registered.

(d) If the oral prescription is for an animal, the species of the animal for which the drug is prescribed.

(3) The person filling an oral or written prescription under this section shall write the date of filling and his own signature on the face of the prescription. The oral or written prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of two years, so as to be readily accessible for inspection by any public officer or employe engaged in the enforcement of this chapter. The oral or written prescription shall not be refilled.

(4) The legal owner of any stock of narcotic drugs in a pharmacy, upon discontinuance of dealing in said drugs, may sell said stock to a manufacturer, wholesaler or apothecary, but only on an official written order, and with the approval of the District Director of Internal Revenue for the district of Oregon.

(5) An apothecary, only upon an official written order, may sell to a physician, dentist or veterinarian, in quantities not exceeding one ounce at any one time, aqueous or

oleaginous solutions of which the content of narcotic drugs does not exceed a proportion greater than 20 percent of the complete solution, to be used for medical purposes. [Amended by 1955 c.60 §1]

474.070 Use and administration of drugs. (1) A physician or a dentist, in good faith and in the course of his professional practice only, may prescribe, administer and dispense narcotic drugs, or he may cause the same to be administered by a nurse or interne under his direction and supervision.

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

(3) Any person who has obtained from a physician, dentist or veterinarian any narcotic drug for administration to a patient during the absence of such physician, dentist or veterinarian shall return to such physician, dentist or veterinarian any unused portion of such drug when it is no longer required by the patient.

474.080 Drugs usable without prescription. (1) Except as otherwise in this chapter specifically provided, this chapter shall not apply to the administering, dispensing or selling at retail of any medicinal preparation that contains in one fluid ounce, or if a solid or semisolid preparation, in one avoirdupois ounce, not more than one grain of codeine, one-half grain of dihydrocodeine, one-sixth grain of dihydrocodeinone, two grains of Noscapine (also known as Narcotine), or two grains of Papaverine, or of any of their salts. The exemptions authorized by this section shall be subject to the following conditions:

(a) The medicinal preparation administered, dispensed or sold shall contain, in addition to the narcotic drug in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the narcotic drug alone.

(b) Such preparation shall be administered, dispensed and sold in good faith as a medicine, and not for the purpose of evading the provisions of this chapter.

(2) Nothing in this section shall be construed to limit the quantity of codeine, dihydrocodeinone, dihydrocodeine, Noscapine (also known as Narcotine), Papaverine, or of any of their salts that may be prescribed, administered, dispensed or sold to any person or for the use of any person or animal, when it is prescribed, administered, dispensed or sold in compliance with the general provisions of this chapter. [Amended by 1957 c.587 §3]

474.090 Records required by persons manufacturing or selling drugs. (1) Every physician, dentist, veterinarian or other person who is authorized to administer or professionally use narcotic drugs shall keep a record of such drugs received by him, and a record of all such drugs administered, dispensed or professionally used by him otherwise than by prescription. It shall, however, be deemed a sufficient compliance with this subsection if any such person using small quantities of solutions or other preparations of such drugs for local application, shall keep a record of the quantity, character and potency of such solutions or other preparations purchased or made up by him, and of the dates when purchased or made up, without keeping a record of the amount of such solution or other preparation applied by him to individual patients; provided, that no record need be kept of narcotic drugs administered, dispensed or professionally used in the treatment of any one patient when the amount administered, dispensed or professionally used for that purpose does not exceed in any 48 consecutive hours (a) four grains of opium, or (b) one-half of a grain of morphine or of any of its salts, or (c) two grains of codeine or of any of its salts, or (d) one-fourth of a grain of heroin or of any of its salts, or (e) a quantity of any other narcotic drug or any combination of narcotic drugs that does not exceed in pharmacologic potency any one of the drugs named above in the quantity stated.

(2) Manufacturers and wholesalers shall keep records of all narcotic drugs compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection (5) of this section.

(3) Apothecaries shall keep records of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection (5) of this section.

(4) Every person who purchases for resale, or who sells narcotic drug preparations

exempted by ORS 474.080, shall keep a record showing the quantities and kinds thereof received and sold or disposed of otherwise, in accordance with the provisions of subsection (5) of this section.

(5) The form of records shall be prescribed by the Board of Pharmacy. The record of narcotic drugs received shall in every case show the date of receipt, the name and address of the person from whom received and the kind and quantity of drugs received; the kind and quantity of narcotic drugs produced or removed from process of manufacture and the date of such production or removal from process of manufacture; and the record shall in every case show the proportion of morphine, cocaine or ecgonine contained in or producible from crude opium or coca leaves received or produced, and the proportion of resin contained in or producible from the plant Cannabis Sativa L., received or produced. The record of all narcotic drugs sold, administered, dispensed or otherwise disposed of shall show the date of selling, administering or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of two years from the date of the transaction recorded. The keeping of a record required by or under the federal narcotic laws, containing substantially the same information as is specified above, shall constitute compliance with this section, except that every such record shall contain a detailed list of narcotic drugs lost, destroyed or stolen, if any, the kind and quantity of such drugs, and the date of the discovery of such loss, destruction or theft.

474.100 Labels affixed to containers of drugs. (1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall affix securely to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind and form of narcotic drug contained therein. No person, except an apothecary for the purpose of filling a prescription under this chapter, shall alter, deface or remove any label so affixed.

(2) Whenever an apothecary sells or dispenses any narcotic drug on a prescription issued by a physician, dentist or veterinarian, he shall affix to the container in which such drug is sold or dispensed, a label showing his name, address and registry number, or the name, address and registry number of the apothecary for whom he is lawfully acting; the name and address of the patient or, if the patient is an animal, the name and address of the owner of the animal and the species of the animal; the name, address and registry number of the physician, dentist or veterinarian by whom the prescription was written; and such directions as may be stated on the prescription. No person shall alter, deface or remove any label so affixed so long as any of the original contents remain.

474.110 Possession of drug lawful only in container. A person to whom or for whose use any narcotic drug has been prescribed, sold or dispensed by a physician, dentist, apothecary or other person authorized under the provisions of ORS 474.050, and the owner of any animal for which any such drug has been prescribed, sold or dispensed by a veterinarian may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing the same.

474.120 Applicability of chapter to carriers, warehousemen and public officers. The provisions of this chapter restricting the possession and having control of narcotic drugs shall not apply to common carriers or to warehousemen while engaged in lawfully transporting or storing such drugs, or to any employe of the same acting within the scope of his employment; or to public officers or their employes in the performance of their official duties requiring possession or control of narcotic drugs; or to temporary incidental possession by employes or agents of persons lawfully entitled to possession, or by persons whose possession is for the purpose of aiding public officers in performing their official duties.

474.130 Place resorted to by drug addicts declared to be nuisance. (1) Any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by narcotic drug addicts for the purpose of using narcotic drugs or which is used for the illegal keeping or selling of the same, shall be deemed a common nuisance and shall be abated in the manner provided in ORS 471.630 to 471.655.

(2) No person shall keep or maintain such a common nuisance.

(3) No person shall frequent any place if he knows it to be a place of the type described in subsection (1) of this section. [Amended by 1957 c.587 §4]

474.140 Forfeiture and destruction of unlawfully possessed drugs. All narcotic drugs, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer, shall be forfeited and disposed of as follows:

(1) Except as in this section otherwise provided, the court or magistrate having jurisdiction shall order such narcotic drugs forfeited and destroyed. A record of the place where said drugs were seized, of the kinds and quantities of drugs so destroyed, and of the time, place and manner of destruction, shall be kept, and a return under oath, reporting said destruction, shall be made to the court or magistrate and to the United States Commissioner of Narcotics, by the officer who destroys them.

(2) Upon written application by the Board of Pharmacy, the court or magistrate by whom the forfeiture of narcotic drugs has been decreed may order the delivery of any of them, except heroin and its salts and derivatives, to said Board of Pharmacy for distribution or destruction, as hereinafter provided.

(3) Upon application by any hospital within this state, not operated for private gain, the Board of Pharmacy may in its discretion deliver any narcotic drugs that have come into its custody by authority of this section to the applicant for medicinal use. The Board of Pharmacy may from time to time deliver excess stocks of such narcotic drugs to the United States Commissioner of Narcotics, or may destroy the same.

(4) The Board of Pharmacy shall keep a full and complete record of all drugs received and of all drugs disposed of, showing the exact kinds, quantities and forms of such drugs; the persons from whom received and to whom delivered; by whose authority received, delivered and destroyed; and the dates of the receipt, disposal or destruction, which record shall be open to inspection by all federal or state officers charged with the enforcement of federal and state narcotic laws.

474.150 Forwarding copy of conviction to licensing authorities; reinstatement of license. On the conviction of any person of the violation of any provision of this chapter, a copy of the judgment and sentence and of the opinion of the court or magistrate, if any opinion be filed, shall be sent by the clerk of the court, or by the magistrate, to the board or officer, if any, by whom the convicted defendant has been licensed or registered to practice his profession or to carry on his business. On the 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.

474.160 Inspection of prescriptions, orders, records and stocks. Prescriptions, orders and records required by this chapter, and stocks of narcotic drugs, shall be open for inspection only to federal, state, county and municipal officers, whose duty it is to enforce the laws of this state or of the United States relating to narcotic drugs. No officer having knowledge by virtue of his office of any such prescription, order or record shall divulge such knowledge, except in connection with a prosecution or proceeding in court or before a licensing or registration board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders or records relate is a party.

474.170 Obtaining drug unlawfully. (1) No person shall obtain or attempt to obtain a narcotic drug, or procure or attempt to procure the administration of a narcotic drug:

(a) By fraud, deceit, misrepresentation or subterfuge; or

(b) By the forgery or alteration of a prescription or of any written order; or

(c) By the concealment of a material fact; or

(d) By the use of a false name or the giving of a false address.

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

(3) No person shall wilfully make a false statement in any prescription, order, report or record required by this chapter.

(4) No person shall, for the purpose of obtaining a narcotic drug, falsely assume

the title of or represent himself to be a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian or other authorized person.

(5) No person shall make or utter any false or forged prescription or false or forged written order.

(6) No person shall affix any false or forged label to a package or receptacle containing narcotic drugs.

(7) The provisions of this section shall apply to all transactions relating to narcotic drugs under the provisions of ORS 474.080 in the same way as they apply to transactions under all other sections.

474.180 Defendant must prove exemption from drug laws. In any complaint, information or indictment, and in any action or proceeding brought for the enforcement of any provision of this chapter, it shall not be necessary to negative any exception, excuse, proviso or exemption contained in this chapter, and the burden of proof of any such exception, excuse, proviso or exemption shall be upon the defendant.

474.190 Duty to enforce chapter. It hereby is made the duty of the Board of Pharmacy, its officers, agents, inspectors and representatives, and of all peace officers within the state, and of all county attorneys, to enforce all provisions of this chapter, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state and of all other states relating to narcotic drugs.

474.200 Making rules and regulations. The Board of Pharmacy shall make all needed rules and regulations for carrying the provisions of this chapter into effect.

474.210 Acquittal or conviction under federal law as precluding prosecution. No person shall be prosecuted for a violation of any provision of this chapter if such person has been acquitted or convicted under the federal narcotic laws of the same act or omission which it is alleged constitutes a violation of this chapter.

474.220 Interpretation and construction of chapter. This chapter shall be so interpreted and construed as to effectuate its general purpose, to make uniform the laws of those states which enact it.

474.990 Penalties. (1) Except as otherwise specifically provided, any person violating any provision of this chapter shall:

(a) Upon conviction, be punished by a fine not exceeding $5,000, or by imprisonment in the state penitentiary for not exceeding 10 years, or both.

(b) Upon a second or subsequent conviction, be punished by a fine not exceeding $10,000, or by imprisonment in the state penitentiary for not exceeding 20 years, or both.

(2) Violation of subsection (2) or (3) of ORS 474.130 is a misdemeanor. [Amended by 1955 c.330 §1; 1957 c.587 §5]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 2, 1957.

Sam R. Haley
Legislative Counsel