

fore said court, *shall be directed to the defendant*, shall be signed by the clerk or a judge thereof, shall be otherwise substantially in the form provided by section * * * 304.23 of the statutes and shall be served by the sheriff of said Milwaukee county on the garnishee personally at least six days before the return day thereof. A copy of such summons shall be served on the defendant within the time service thereof is required to be made on the garnishee. If the defendant cannot be found or is not a resident of the state then service may be made upon him by publication as provided in sections * * * 304.12 and * * * 804.14 of the statutes, with like effect, unless he shall have a known agent or attorney residing within the jurisdiction of the court or some member of his family of suitable age and discretion shall reside within the same, when service may be made on such agent or attorney or some such member of the defendant's family. The notice to the defendant may be substantially in the form prescribed in section * * * 304.24 of the statutes.

SECTION 2. This act shall take effect upon passage and publication.

Approved July 13, 1927.

No. 416, S.]

[Published July 14, 1927.

CHAPTER 336.

AN ACT to amend section 146.02 of the statutes, relating to the sale of narcotics and providing penalties.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section 146.02 of the statutes is amended to read: 146.02 State narcotic law. (1) Subsections (1) to (29) of this section shall be known and may be cited as the "State Narcotic Law." No person except those * * * *registered by federal authority* so to do shall sell, furnish or deliver any cocaine, opium, morphine, heroin, alpha or beta eucaine, or any salt or combination of the same, or any mixture, preparation or compound containing any cocaine, or more than two grains of opium, one grain of codeine, one-fourth grain of morphine, one-eighth grain of heroin, one-eighth grain or alpha or beta eucaine in one ounce, fluid or avoirdupois ounce except *in pursuance of a writ-*

*ten order of the person to whom such article is sold, bartered, exchanged or given, on a form to be issued in blank for that purpose by the commissioner of internal revenue or upon the original prescription of an authorized practitioner of medicine, dentistry or veterinary medicine, for a person or animal under his treatment, which prescription shall contain the signature of the prescriber and the name of the person for whom prescribed, and if a veterinary prescription, also the kind of animal. It shall be dated and kept on file by the dispenser for two years, and shall not be again filled except upon order from the prescriber. * * **

(3) Each druggist or pharmacist who fills a prescription for a narcotic drug shall securely attach to the container thereof a label, giving the name and address of the store where the prescription is filled, the date of filling, the name of the person for whom prescribed, the name of the physician, dentist or veterinarian who issued it; and the narcotic drug so delivered shall always be kept in its container until used. No prescription shall be refilled, nor shall a copy of the same be made, except for the purpose of record by the druggist filling the same, such record to be opened at all times to inspection by officers of the department of public health, the board of registration in pharmacy, the board of registration in medicine, authorized agents of said departments and boards, and by the police authorities and police officers of towns, villages, or cities.

(4) No practitioner of veterinary medicine shall prescribe any narcotic drug for the use of a human being, nor shall any physician or dentist prescribe, dispense, administer, sell, give or deliver any narcotic drug to any person, except when the drug is obviously and in good faith then and there needed for the treatment and cure of a disease or ailment, and not needed for any condition or disease directly due to any drug habit, or resulting solely from the failure of an habitual user of narcotic drugs to procure the particular narcotic drug to the use of which he is addicted.

(5) A physician may personally administer any narcotic drug at such time and under such circumstances as he in good faith and in the legitimate practice of medicine believes to be necessary for the alleviation of pain and suffering or for the treatment or alleviation of disease; such physician shall keep a record of all such drugs dispensed or distributed showing the amount dispensed or distributed, the date, and the name and address of

the patient to whom such drugs are dispensed or distributed, except such as may be dispensed or distributed to a patient upon whom such physician shall personally attend, and such record shall be kept for a period of two years subject to inspection as provided in this section.

(6) A physician acting in accordance with proper medical practice may prescribe or dispense narcotics for the relief of acute pain, or for any acute condition, such as influenza, renal calculi, broken limbs, and such incurable diseases, such as cancer, advanced tuberculosis and other diseases well recognized as coming within this class * * *. It shall be a violation of this section for any physician to prescribe narcotic drugs to a patient suffering from narcotic drug addictions, except only in such cases where the drug addict is being treated by such physician for the cure of narcotic drug addiction *under confinement in institution*.

(7) Whoever for the purpose of evading or assisting in the evasion of any provision of this section, falsely represents that he is a physician, dentist or veterinarian, or that he is a manufacturer of or jobber in drugs, or wholesale druggist, or pharmacist, actively engaged in business as such, or that he is a superintendent or official in immediate charge of an incorporated hospital, college or scientific institution, or a person registered under the act of congress approved December 17, 1914, *as amended*, or whoever not being an authorized physician, dentist or veterinarian makes or alters a prescription or written order for any narcotic drug, or knowingly issues or utters a prescription or written order falsely made or altered, or whoever *falsely* utters any other matter, either in writing or orally to any physician, dentist, pharmacist or veterinarian for the purpose of securing a prescription, or the delivery of a narcotic drug shall be punished as provided in subsection (27) of this section.

(8) The possession by any person of a United States certificate of *registration* issued under and by virtue of the act of congress approved December 17, 1914, *as amended*, shall be prima facie evidence of an intent to sell, furnish, give or deliver a narcotic drug.

(9) Whoever not being a manufacturer or jobber of drugs, wholesale druggist, registered pharmacist, registered physician, registered veterinarian, registered dentist, nurse, acting under direction of a physician, or employe of an incorporated hospital, acting under the direction of its superintendent, or official in im-

mediate charge, or a common carrier or messenger, when transporting any narcotic drug between persons mentioned in this subsection, in the same package in which the drug was delivered to him for transportation, is found in possession thereof, except by reason of a physician's prescription, lawfully and properly issued, shall be guilty of a violation of this section.

(10) Common carriers engaged in transporting narcotic drugs to any employe acting within the scope of his employment, or any person who is lawfully in possession for the purpose of delivery of any such drug, or to the person who delivers any such drug, which has been prescribed or dispensed by a physician, dentist or veterinarian registered under the laws of the state where he resides, who has been employed to prescribe for the particular patient receiving such drug or to a nurse under the supervision of a physician or to a person, who as an officer or duly appointed agent of any incorporated society for the suppression of vice, has the same in his possession for the purpose of assisting in the prosecution of violations of this section shall not be considered to have violated the provisions of this section.

(11) No manufacturer or jobber in drugs, wholesale druggist, or registered pharmacist shall be liable to prosecution if he fills any prescription or written order for a narcotic drug in good faith, unless he knows or has reasonable cause to suspect that the prescription or order was in violation of this section.

(12) No physician, dentist or veterinarian and no druggist or pharmacist, either wholesale or retail, shall solicit by public advertisement or otherwise the application to him for prescription for or sales of narcotic drugs, nor shall he publicly advertise any treatment, the principal element of which consists in the administering, dispensing, furnishing, giving or delivery of a narcotic drug, except that a wholesale druggist or manufacturing pharmacist or *private sanitarium* may advertise in journals and publications intended for circulation among the medical profession and drug trade generally.

(13) No person not being a physician, dentist, nurse or veterinarian, registered under the laws of this state or of the state where he resides, or a registered embalmer, manufacturer or dealer in embalming supplies, wholesale druggist, manufacturing pharmacist, registered pharmacist, manufacturer of surgical instruments, official of any government having possession of the articles hereinafter mentioned by reason of his official duties, nurse act-

ing under the direction of a physician, employe of an incorporated hospital acting under the direction of its superintendent or officer in immediate charge, or a carrier or messenger engaged in the transportation of such articles, shall have in his possession a hypodermic syringe, hypodermic needle or any instrument adapted for the use of narcotic drugs by subcutaneous injection *except upon written order of a licensed physician and surgeon, dentist or veterinarian*. No such syringe, needle or instrument shall be delivered or sold to or exchanged with any person except a registered pharmacist, physician, dentist, veterinarian, registered embalmer, manufacturer or dealer in embalming supplies, wholesale druggist, manufacturing pharmacist, a nurse under the written order of a physician, or an employe of an incorporated hospital, upon the written order of its superintendent or officer in immediate charge *except upon written order of a licensed physician and surgeon, dentist or veterinarian*.

(14) Each building, place or tenement which is resorted to by habitual users of narcotic drugs for the purpose of using such drugs or which is used for the illegal keeping for sale of the same shall be deemed a common nuisance; and whoever keeps or knowingly maintains such a common nuisance shall be punished by imprisonment of not less than three months.

(15) It shall be a violation of this section for any practitioner of medicine, dentistry, or veterinary medicine, to administer to himself, *as a habitual user* narcotic drugs *merely to satisfy his craving for the same*, or furnish to or prescribe for the use of narcotic drugs with the purpose that the narcotic drugs be returned to him.

(16) The possession *or sale of smoking preparations, of hemp or loco weed*, of a pipe or pipes used for smoking opium, or the usual attachments or attachment thereto or other contrivances used for smoking opium, * * * *shall be a violation of this section and shall be seized by a peace officer and such drugs and pipes shall be destroyed by such officer*.

(17) The state board of pharmacy may revoke the registration of any registered pharmacist or assistant pharmacist upon conviction of the second offense for violating any provisions of this section.

(18) No person shall take or use narcotic drugs habitually, excessively, or except in pursuance to a prescription for such permitted use as is prescribed in subsections (5) and (6) of this

section. The possession of narcotic drugs by persons not authorized by law to have such possession, or their possession of a hypodermic syringe and hypodermic needle used in the administration of drugs shall be prima facie evidence of the unlawful use of such drugs. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than one hundred dollars, or by commitment to an institution for the treatment of drug addicts, for a period not less than six months, or until such person shall be cured of his addiction to the use of narcotic drugs, but not exceeding one year; nothing herein contained shall be construed as in any manner restricting or limiting the rights of individuals as declared in subsection (2) of section 147.19 of the statutes, provided, however, that upon the certificate of the superintendent of the institution to which such person has been committed, that such person has been cured of his addiction to the use of narcotic drugs, such person shall be released, and such commitment terminated. Any person so committed who has been confined in such institution for at least six months, and who has been refused a certificate of cure and release by the superintendent of such institution, may obtain a trial of the question of the cure of his addiction to the use of drugs in the same manner and with the same effect as is provided for the retrial of insane persons by section 51.11.

(19) The state board of control shall make provisions for the public treatment of narcotic drug addicts at one of the state institutions to which the commitment provided in subsection (18) of this section shall be made from counties, villages and cities of the second, third, and fourth classes. Provision shall also be made by *counties containing* cities of the first class for the public treatment of narcotic drug addicts in local institutions, to which all commitments in pursuance of subsection (18) of this section in cities of the first class shall be made. *The state shall compensate such counties for the treatment of narcotic drug addicts at the same rate and in the same manner as other inmates in the same institutions.*

(20) Any person resident in the state, who may be addicted to the use of narcotic drugs, may upon his agreement to remain in such institution for a period of six months, or longer if necessary for his cure, and his written application stating his addiction, supported by the certificate of at least two physicians, who

shall have been duly licensed to practice and shall have had at least two years' experience in the practice of their profession, based upon personal examination of such person, be admitted as a voluntary patient to any institution provided by the state for the treatment of drug addicts, or if such person is a resident of a city of the first class to such institution provided by such city. Such person, if so admitted to either of such institutions, if not indigent, shall be required to pay such sum for his maintenance and at such times as the state board of control or such city of the first class may by rule, by-law or ordinance prescribe. Otherwise all voluntary patients shall have the same standing, and be subject to the same laws, rules and regulations as drug addicts, except that they shall have the right to leave such institution at any time if in the judgment of the superintendent they are in a fit condition, on giving five days' notice to the superintendent of their desire to do so. Any such voluntary submission to admission and treatment shall operate as a bar to any prosecution for any violation of subsection (18) of this section theretofore committed by such voluntary patient.

(21) No practitioner of medicine, dentistry or veterinary medicine, for the purpose of evading this section, shall furnish to or prescribe for the use of any habitual user of the same any cocaine, heroin, alpha or beta eucaine, opium, morphine, chloral hydrate, or any salt or compound of any of the foregoing substances, or any preparations containing any of the foregoing substances or their salts or compounds. No practitioner of dentistry shall prescribe any of the foregoing substances for any person not under his treatment in regular practice, nor shall any practitioner of veterinary medicine prescribe any of the foregoing substances for the use of a human being.

(22) This section shall not apply to preparations containing *less than two grains of opium in one fluid ounce * * ** when sold in good faith for diarrhoea, colic or cholera, each bottle or package being accompanied by specific directions for use, nor to powder of ipecac and opium, nor to liniments, ointments and other preparations sold in good faith for external application, when plainly labeled "for external use only," nor to *such* sales made to physicians, druggists, manufacturers, hospitals or other public institutions which make lawful use of such narcotics. *Provided further, that any manufacturer, producer, compounder, or vender (including dispensing physicians) of the prepara-*

tions and remedies mentioned in this subsection shall keep a record showing the amount and kind, the date, and the name and address of the recipients of all sales, exchanges, or gifts of such preparations and remedies.

(23) No person shall sell or deliver any of the poisonous salts or compounds of antimony, arsenic, chromium, lead, mercury, silver, tin or zinc, the concentrated mineral acids; oxalic, carbolic or hydrocyanic acids or their salts, formaldehyde, yellow phosphorus, the essential oils, of almonds, pennyroyal, rue, savin or tansy; croton oil, creosote, chloroform, cantharides, aconite, belladonna, bitter almonds, colchicum, cotton root, cannabis indica, digitalis, ergot, hyoscyamus, lobelia, nux vomica, physostigma, strophanthus, stramonium, veratrum viride, or any of the poisonous alkaloids or glucosides derived from the foregoing or in any other virulent poison, unless it be upon the prescription of authorized practitioners of medicine, dentistry, or veterinary medicine, except as follows:

(a) The dispenser shall ascertain that the applicant is aware of the poisonous character and desires it for a lawful purpose.

(b) He shall plainly label the container with the name of the substance, the word "Poison," and the name and address of the dispenser.

(c) Before delivery except of paris green and sulphate of copper, he shall record in a book kept for that purpose, the name of the article, the quantity, the purpose, the date, the name and address of the person for whom procured, and the name of the individual personally dispensing the same; and said book shall be preserved by the owner thereof for at least three years after the date of the last entry therein, and shall be open to inspection by authorized officers.

(d) If the applicant be under fourteen years of age, he must have the written order of an adult person.

(24) (a) Subsection (4) shall not apply to manufacturers and wholesalers selling at wholesale to licensed pharmacists or others, but the container shall be labeled with the name of the substance, the word "Poison," and the name and address of the manufacturer or wholesaler.

(b) A "Poison" label is not required when a single container or when one-half ounce fluid or avoirdupois does not contain more than an adult medicinal dose nor in the case of liniments, ointments or other external preparations sold in good faith as such,

and plainly labeled "for external use only," nor in the case of pills, tablets or lozenges, when the dose recommended does not contain more than one-quarter of an adult medicinal dose.

(25) No person seeking to procure any such substance shall make fraudulent representations for the purpose of evading the law.

(26) Except as authorized by law, no person shall put any drug, medicine or chemical, or any compound or combination thereof in any public place, or, without the consent of the owner or occupant upon any private premises, nor cause it to be done.

(27) Any person who shall violate any of the provisions * * * of section 146.02, *if not otherwise specifically provided*, shall be guilty of felony and upon conviction shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the house of correction or state prison *or other state or county institution* for not less than one year nor more than five years. * * *

(28) No practicing physician or surgeon shall write or cause to be written any narcotic prescription or recipe except in ink *or indelible pencil* and in characters, figures or ciphers in the English or Latin language, generally in use among medical practitioners and for every violation hereof the offender shall forfeit not less than five nor more than twenty-five dollars.

(29) It shall be the duty of the police and sheriffs throughout the state and members of the state board of pharmacy to enforce the provisions of section 146.02; and it shall be the duty of the district attorney in each county to prosecute violations thereof on complaint or on knowledge of such violations.

SECTION 2. This act shall take effect upon passage and publication.

Approved July-13, 1927.