P. 24

FEDERAL NARCOTIC LAWS

A Digest and an Editorial Article

For Doctors of Medicine

PUBLISHED BY
LOS ANGELES COUNTY
MEDICAL ASSOCIATION
LOS ANGELES, CALIF.
NOVEMBER 1925

A

DIGEST

and an

EDITORIAL ARTICLE

(analysis, explanation and interpretation)

of the

FEDERAL NARCOTIC LAWS

(including regulations and rulings)

as they apply to

DOCTORS OF MEDICINE

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PREFACE

The purposes of this publication are to give the physician a better understanding of his position, rights and limitations under the Federal law, and to point out to him the inconsistencies and inadequacies of the law as it at present exists and is interpreted.

The Editorial Article, in addition to being an analysis of the situation confronting the physician and resulting from the present laws, present law enforcement practice and public opinion, is also intended as an explanation and interpretation of the laws, regulations, etc.

Although the Digest is submitted as containing all and only such information as is essential to the physician, and while it is not necessary for the physician to look up the references to the law, except that he wishes to confirm the statements made, it is strongly advised that he read all references to the Editorial Article, particularly regarding the conditions and requirements of prescribing (part III, 3) because it is hoped that a better and more detailed understanding is there given of what the physician CAN AND CANNOT DO WITHIN A SAFE INTERPRETATION OF THE LAW.

The Digest applies only to physicians, and to physicians only as such, who in the course of their professional practice sell, deal in, dispense, give away, distribute, administer or prescribe narcotic drugs, including exempt preparations, and who by so doing would necessarily register in Class IV or Class V. No attempt is made to digest the laws as they apply to importers, manufacturers, producers, compounders, chemists and wholesale or retail dealers, except that certain

of the requirements for these classes are given where the information is essential to the physician.

While primarily intended for the doctor of medicine, this publication is applicable also to dentists and veterinary surgeons. It is not intended for osteopaths, chiropractors and other so-called drugless practitioners not entitled to register under the Harrison Act.

The physician will bear in mind that he has also to be governed by the laws of his own state and municipality.

C. K. Crane
H. L. Kirby

FEDERAL NARCOTIC LAWS,

regulations and rulings in force October 1, 1925

THE HARRISON ACT

of December 17, 1914, as amended by Sections 1006 and 1007 of the Revenue Act of 1918.

REGULATIONS NO. 35

as amended to November, 1919, and further amended by various Treasury Decisions between that date and October 1, 1925. Issued by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury.

PRO-MIMEOGRAPH NO. 316

dated May 21, 1923. Issued by the Federal Prohibition Commissioner with the approval of the Commissioner of Internal Revenue. (Note Editorial Article, paragraphs 6, 8).

THE NARCOTIC DRUGS IMPORT AND EXPORT ACT

of February 9, 1909, as amended by the acts of January 17, 1914, and May 26, 1922.

TERMINOLOGY

The following terms are used throughout the Digest and Editorial Article:

Physician — Physicians, dentists and veterinary surgeons, including partnerships, associations, companies or corporations of them, lawfully entitled to practice in their jurisdiction.

Narcotic Drugs—Opium or coca leaves or any compound, manufacture, salt, derivative or preparation of opium or coca leaves.

Narcotic Addiction Disease—Used as explained in paragraphs 15 to 17 of the Editorial Article.

Exempt Preparations—As defined on page 13 of the Digest.

Authorized Officials—As given on page 15 of the Digest.

REFERENCE NUMBERING

Physicians are presumed to be in possession of the November, 1919 revision of Regulations 35, in which is also printed the Harrison Act as amended.

The relevant parts of all other federal narcotic laws and rulings, including the amendments to such articles of Regulations 35 as are involved, are reprinted in the appendix.

Reference numbers given in the Digest to facilitate the confirmation of the statements made, and more particularly to call attention to such parts of the law as have been treated in the Editorial Article, are used as follows:

S1, S8, etc.	refer to Sections of the Harrison Act as amended.
A21, A53, etc.	refer to Articles of Regulations 35 as revised to November, 1919.
A15amd., A119amd., etc.	refer to Articles of Regulations 35 (1919 revision) which have been amended or added, *and as reprinted in the Appendix.*
PM3, PM7, etc.	refer to Pro-Mimeograph 316, *as reprinted in the Appendix.*
EA6, EA14, etc.	refer to paragraphs in the Editorial Article.

CONTENTS

DIGEST

(N. B. See page vi for explanation of terms and reference numbers used)

I. REGISTRATION

1. What Physicians are Required to Register

All physicians who sell, deal in, distribute, dispense, give away, administer or prescribe narcotic drugs or exempt preparations alone, to patients upon whom they in the course of their professional practice are in attendance, or who, even though they do not keep such drugs in their possession, ONLY PRESCRIBE NARCOTIC DRUGS, must register with the Collector of Internal Revenue of their district and pay the taxes imposed on the Class or Classes in which they register. [*S1par1—S1par4—S6—A4—A30—EA9, 10*].

2. Time of Registration

Physicians required to register must do so on or before July 1 of each year. Those who commence business after July 1 must make a return for registration immediately, covering the unexpired portion of the tax year ending June 30 following. [*S1par1—A7*].

3. Classes. Amounts of Tax

a. Persons, including partnerships, corporations, hospitals, etc., subject to tax are divided into Classes as follows:

Class	*Persons Liable*	*Annual Tax*
I	Importers, Manufacturers, Producers, Compounders, and Chemists.....	$24.00
II	Wholesale Dealers	12.00
III	Retail Dealers	6.00
IV	Physicians, Dentists, Veterinary Surgeons, and other practitioners.....	3.00
V	Manufacturers of and dealers in exempt preparations	1.00

[*S1par4—S1par9—A2—A21*].

b. Physicians must register in Class IV and pay $3.00 a year tax to sell, deal in, dispense, give away, distribute, administer or prescribe narcotic drugs, exclusive of exempt preparations. [*S1par1—S1par4—A21—A30*].

c. Physicians must register in Classes IV and V and pay $3.00 a year tax to sell, deal in, dispense, give away, distribute, administer or prescribe narcotic drugs, including exempt preparations. [*S1par1—S6—A15amd—A30—A139*].

d. Physicians must register in Class V and pay $1.00 a year tax to deal in exempt preparations alone. [*S6—A140*].

e. A physician who operates a drug store and, as a retailer, sells narcotic drugs (except exempt preparations) under prescriptions written by either himself or another physician, incurs additional liability as a retail dealer. [*A29*].

4. Measure of Tax Payable

a. A full year's tax is due for registration in Class IV or Classes IV and V when business is commenced in July, after which month it is on a pro rata monthly scale. If registering in Class V only, a full year's tax is due for registration any time during the year. [*A18—A140*].

b. When a change of ownership in a practice or business occurs the succeeding owner pays taxes as a new registrant and his predecessor is not entitled to any refund. [*A19*].

5. Multiple Offices

A practice or business conducted at two or more places requires separate registration, the filing of separate applications or returns, and the payment of separate taxes, for each place of business even though in one Class of registration. [*A15amd—A23*].

6. Procedure and Requirements

a. Applications for registration must be:

—made to the Collector of Internal Revenue of the applicant's district, who will supply the appropriate forms. [*A6amd*].

—made on Form 678a if for a new registration. [*A11amd*].

—made on Form 678 if for renewing registration in the same or in another Class. [*A11amd*].

—signed by the applicant himself, or, in the case of an organization, by an officer duly authorized to so act. [*A8.*]

—accompanied by a remittance covering the tax due. [*A6amd*].

—accompanied by a sworn affidavit showing the physician to be legally qualified and permitted, by the laws of his jurisdiction, to practice his profession. (In practice Collectors do not as a rule require this affidavit from physicians re-registering in the same Class and in the same district). In the case of a new application the affidavit must also state whether he has been practicing at the address given during the previous three months; and if not, then the nature and address of his last previous occupation or the name and address of his employer. [*A11amd*].

—accompanied by an inventory of all narcotic drugs exclusive of exempt preparations, on hand on the date of the inventory. The inventory must be made on Form 713 obtainable from the Collector of Internal Revenue and made in duplicate—the original being kept and the duplicate given to the Collector. It must be made out on December 31 preceding the date of application or on any other date between December 31 and the date of application, and signed and sworn to by the applicant. [*A12amd*].

—accompanied by, in the case of a new registrant and as references, the names and addresses of at least two reputable citizens of the community in which the registrant will do business or in which he has last done business. If the intending registrant is a partnership each partner must comply with this provision; if a corporation, a certified copy of the articles of incorporation or corporate charter must be filed with the Collector and the principal officers must comply with the provisions of this paragraph. [*A11amd*].

b. A registry number will not be assigned, nor the special-tax stamp furnished (the special-tax stamp is a certificate, to be conspicuously posted in the physician's office, indicating that the required tax has been paid, and constituting a permit to operate under the provisions of the Harrison Act, and stating the physician's registry number—*A55*) until the application, accompanied by the supporting documents, has been sent to and approved by the Supervising Federal Prohibition Agent of the district where application is made. [*A11amd—A13*]. (In practice the application is sent to the District Federal Narcotic Agent).

II. STOCKS OF NARCOTIC DRUGS

1. How Obtained

Stocks of narcotic drugs for sale, dispensing or administering are obtained from Class I and II registrants by the use of standard blank forms known as order forms. EXCEPTIONS. (*a*) Stock Solutions For Office Practice. Quantities of one ounce or less of aqueous narcotic solution may be obtained by order forms from Class III registrants, i.e. retail dealers. (*b*) Exempt Preparations. These may be obtained without the use of order forms. [*S2par1—A100amd—A109½amd*].

2. Order Forms

a. How Obtained

Order forms are issued in duplicate in book form, and are furnished by the district Collector of Internal Revenue. Requisition Forms 679 for ordering order forms are furnished by the Collector and have to be filled out and forwarded to him together with ten cents for each book of ten forms in duplicate. [*S2par6—A103—A104*].

b. When Not Required

Order forms are not required:—

1. When narcotic drugs are transferred pursuant to prescriptions issued for legitimate medical purposes.
2. When narcotic drugs are dispensed by a physician for legitimate medical purposes to his own bona fide patients. [*S2par1—A102*].

c. How Used

Order forms are issued in duplicate and must be executed in duplicate. The original must not leave the possession of the physician executing it until the duplicate is made out. If one form is not sufficient for the order, two must be used. The duplicate must be filed for two years by the physician executing it, and be kept readily accessible to inspection by authorized officials. The original must be similarly treated by the person accepting the order. [*S2par1—A107—A127—A134*].

The full and exact date when order forms are actually made out must be inserted by the physician and they must be signed personally either by the physician or else by a power of attorney legally effective for the purpose and previously filed with and approved by the Collector.

They cannot be signed with the name of a firm, corporation, etc. without indication of individual responsibility. [*A*108—*A*109*amd*].

d. Unused Order Forms

Unused order forms in the possession of any person after his period of registration has expired, or who has, for any reason, discontinued business prior to such date must be sent to the Collector by whom issued. He will cancel and return them to the former registrant who must file them with the used duplicates for two years. EXCEPTION. However, after change of ownership, order forms may be used by the successor after his predecessor has returned them to the Collector to be stamped with the new registry number and class. [*A*109*amd*—*A*112].

e. Unaccepted, etc., Orders

When orders are unaccepted or for other reasons unfilled, the original order form must be returned, with a letter of explanation, to the maker, who must keep the returned original and the letter filed with his duplicate. [*A*110].

Orders not completely filled at one time require notation by the vendor on the original order form and by the vendee on the duplicate, of the actual quantities and dates delivered. [*A*110].

f. Stolen or Lost Order Forms

Stolen or lost order forms, whether used or unused, must be reported immediately, together with a statement of the serial number of each duplicate and original stolen, or failing that the date of receipt thereof and the names and addresses of purchasers to the Commissioner of Internal Revenue, Washington, D. C. If the theft or loss is of or includes any entire books and the registrant is unable to give the serial numbers of the forms, or failing that the date of purchase, the theft or loss must be reported to the Collector of the District where purchased. [*A*111½*amd*].

If a physician's original order form is lost in the course of transmission, he must, upon advice of the manufacturer or dealer to whom it was directed that it has not been received, execute another order in duplicate and an affidavit stating that the goods covered by the first order were not received through loss of the order form, noting

on the second order the number and date of the lost order and the fact that it was lost. The duplicate of the second order and the affidavit will be filed with the duplicate of the order form first executed. The second original order form will of course be forwarded in due course. If the first order form should subsequently be received by the person to whom it was directed, the latter will mark upon the face thereof, "Not accepted" and return it to the sender, who will attach it to the duplicates and the affidavit already on file. [*A*111].

g. Mutilated Order Forms

If an order form is improperly executed, or mutilated so as to make it unusable, it must not be destroyed, but both the original and duplicate should be kept on file with the other duplicates. [*A*111].

3. Statements

Physicians must render statements or returns, verified by affidavits, to their Collector whenever required to do so by him and for such period of time immediately preceding his demands, not exceeding three months, as he may determine. These statements must set forth the quantity of narcotic drugs received by him in his district during the period, the names of persons from whom such narcotic drugs were received, and the quantity in each instance received from each of such persons and the date when received, and the statements must be kept readily accessible to inspection by authorized officials. [*S*3—*S*5].

4. Care of Narcotic Drugs

Narcotic drugs must be segregated from the general stock of drugs and be kept under lock and key. [*A*94].

5. Lost or Accidentally Destroyed Narcotic Drugs

Narcotic drugs lost or destroyed by accident require an affidavit in duplicate showing the kind and quantity of narcotic drugs lost or destroyed and the reason therefor. The original must be sent immediately to the Collector and the duplicate filed with the duplicate order form or forms. [*A*95].

6. Stolen Narcotic Drugs

Stolen narcotic drugs require a sworn statement, to be sent immediately to the Collector and giving a list of the narcotic drugs stolen and evidence that the local authorities have been notified. [*A*96].

7. Unused or Excess Narcotic Drugs

USELESS, excess, or undesirable narcotic drugs may be destroyed by a physician in the presence of a narcotic agent or authorized inspector from the division in which the premises of the physician are located. An inventory of the narcotic drugs so destroyed must be prepared on Form 713, the original of which will be taken by the narcotic agent in charge of the district and forwarded to the Commissioner of Internal Revenue, and the duplicate retained on file by the physician for two years.

USEFUL, excess or unused narcotic drugs on hand at the time of discontinuance of business, may be disposed of by the physician to a duly qualified purchaser, providing specific approval of such disposition is secured from the Collector of the district in which the physician is located. Narcotic drugs, as hereinbefore mentioned, may otherwise be disposed of only by shipment, not by mail, charges prepaid, to the narcotic agent in charge of the division in which the physician is located. An inventory of the shipment must be prepared as in the case of destroyed narcotic drugs and a copy of the inventory must accompany each shipment. The physician must notify the narcotic agent in charge by mail advising him of the size and description of the container in which the narcotic drugs are being forwarded. [*A*154*amd*].

8. Private Formulae. Special Mixtures

A mixture containing narcotic drugs may be made up by a retail druggist and kept on hand for a physician to be dispensed pursuant to his prescriptions and in order that he may describe it in his prescriptions as his "Special Mixture". Though the mixture may contain less than the amount of narcotic drugs allowed in exempt preparations it is not an exempt preparation, because it is not made according to an established formula. [*A*146].

III. PRESCRIBING, DISPENSING AND ADMINISTERING

1. General

a. Daily Records

All physicians and others registered in Class IV including hospitals, sanitoriums, dispensaries, etc., are required to keep a daily record showing the kind and quantity of all narcotic drugs dispensed or administered, the names and addresses of those to whom such narcotic drugs are dispensed or administered and the purposes for which they

are dispensed or administered. Only such narcotic drugs as are dispensed or administered by a physician when in personal attendance upon a patient away from his office are exempt from such records. [*A*128—*A*129—*EA*11].

b. Records of Stock Solutions

Physicians who, in their office practice, administer minute quantities of narcotic drugs in the form of solutions may keep a record of the date when a stock solution is made or purchased and the date when it is exhausted, in which case it is unnecessary to keep a record of the name and address of each patient. [*A*130].

c. Physician's Responsibility for Preparation of Prescriptions

The duty of properly preparing prescriptions rests upon the physician and although a prescription may be prepared by a secretary or an agent for the physician's signature, the physician will be held responsible in case the prescription does not conform in all essentials to the law and regulations. [*A*118].

d. Nurses Not Permitted to Register

Nurses are not permitted to register and are regarded as agents of the physician under whose direction or supervision their duties are performed. Nurses (and other agents or employees) are not permitted to be in possession of narcotic drugs except as agents or consumers. [*S*8—*A*38—*A*39].

e. Narcotic Drugs Left With a Nurse

Unused narcotic drugs left by a physician with a nurse to be administered during his absence, upon the discharge of the nurse, must be returned to the physician, who will account for the unused portion of such narcotic drugs on his records on the day it is returned. [*A*39—*A*128].

f. Possession of Narcotic Drugs Received Through Prescriptions

Possession of narcotic drugs by a person who has obtained them from a retailer through a prescription written in good faith by a physician, or to whom a physician has in good faith dispensed such narcotic drugs after having made the necessary records, is not unlawful. [*S*1*par*12—*S*8].

g. Physician's Responsibility for Acts of Nurses and Other Agents

Physicians are responsible for the acts of nurses and other agents or employees within the scope of their employment and in relation to the Harrison Act, and any dealing in narcotic drugs by unregistered agents or employees of a physician is considered within the scope of their employment. [*A37—A38—A39*].

h. Personal Attendance—Defined

A physician is in personal attendance upon a patient within the intent of the law only when he is in personal attendance upon the patient away from his office. [*A126—EA11*].

i. Collector May Require Statements

A Collector will require a sworn statement from any physician in any case where, from the number of order blanks obtained or from the character of the business carried on, he has reason to suspect that narcotic drugs are being dispensed or prescribed for illegal purposes. These statements must be made whenever the Collector deems them necessary and they are to be made on blank forms furnished by him. [*A131—A132*].

2. Prescriptions

a. By Whom Issued

Prescriptions may be issued only by physicians who are duly registered. [*A115*].

b. By Whom Filled

Prescriptions may only be filled by retail dealers registered in Class III, or by Class I registrants qualified to sell narcotic drugs at retail. [*A21—A116*].

c. Prescription Forms

The Government does not furnish prescription forms and any prescription blank may be used providing it is properly executed and contains the required information. [*A123*].

d. When a Prescription Is a Prescription Within the Meaning of the Law

A prescription is a prescription within the meaning of the law and is effective in legalizing possession of unstamped narcotic drugs only when it has been issued for

legitimate medical purposes. (According to the rules governing actual prescribing). [*A117amd—EA* 9, 10, 19 *to* 21].

e. When a Prescription Is Not a Prescription Within the Meaning of the Law

A prescription is not a prescription within the meaning of the law when it is issued to a patient or other person to satisfy mere addiction and to keep the person comfortable. [*A117amd—PM7—EA*19 *to* 21].

f. Writing of Prescriptions—Information Required

Prescriptions must be written in ink or indelible pencil, or typewritten. They must be signed by the physician in ink or with an indelible pencil. They must be dated as of and signed on the day when issued, and contain the name, address, and registry number of the physician, and the full name and address of the patient. [*A119amd*].

g. Filed For Two Years

Druggists or dealers receiving and filling prescriptions must preserve them for two years and must file them in a separate file and readily accessible to inspection by authorized officials. [*A119amd—A124*].

h. Refilling

Refilling narcotic drug prescriptions is prohibited. [*A120*].

i. Partial Filling

Partial filling of narcotic drug prescriptions is prohibited. [*A121*].

j. Telephone Orders

Telephone orders may not be given to druggists or dealers to supply any person with narcotic drugs even though prescriptions are intended subsequently to be given to cover the order. [*A122*].

k. Physician's Name and Address on Packages Issued by Druggists.

Packages (filled prescriptions) containing narcotic drugs, received by a person from a druggist or dealer through a physician's prescription, will contain on the label, among other things, the name, address and registry number of the physician who wrote the prescription. [*A125*].

3. Conditions and Restrictions

a. Dispensing Authorized

Physicians may dispense narcotic drugs to bona fide patients (subject to detailed requirements as given in this section) pursuant to the legitimate practice of their profession without the use of order forms or prescriptions and providing a record of all narcotic drugs so dispensed is kept—except where the physician is in personal attendance, away from his office, upon the patient. [*A*126—*EA*11].

b. Bureau of Internal Revenue's Responsibility in Laying Down Fixed Rules

The Prohibition Bureau (of which the Narcotic Division is the unit actually charged with enforcement) states, "The Bureau of Internal Revenue is not charged with the duty of laying down any fixed rule as to the furnishing of drugs or the frequency of prescriptions in any particular case. The responsibility rests with the physician in charge of the case." (However, the necessary authority is not given the physician to meet this responsibility). [*PM*3—*EA* 13, 14].

c. Consensus of Medical Opinion May be Secured

The good faith of a physician and the bona fides of his treatment in a given case will be established by the facts and circumstances of the case and the consensus of medical opinion with regard thereto, based on the experiences of the medical profession in cases of similar nature. [*PM*4—*EA* 12, 13].

d. Close Supervision of All Patients

Physicians will be charged with violation of the law if, through carelessness or lack of sufficient personal attention, the patient secures more narcotic drugs than are necessary for medical treatment and devotes part of his supply to satisfy addiction. (Within a safe interpretation of the law this prohibits dispensing or prescribing to satisfy narcotic addiction disease temporarily or permanently incurable because complicated by some other disease condition). [*PM*4—*EA* 19 *to* 31].

e. Treatment of Acute Pain or Acute Conditions without reference to Narcotic Addiction Disease

A physician, in accordance with proper medical practice, may prescribe or dispense narcotic drugs for the relief of

acute pain or for any acute condition such as influenza, pneumonia, renal calculi, broken limbs, etc. (Within a safe interpretation of the law this does not give authority to dispense or prescribe narcotic drugs for the relief of acute pain due to the withdrawal of narcotic drugs, that is, withdrawal symptoms). [*PM* 5—*EA* 19 *to* 23].

f. Treatment of Incurable Disease without reference to Narcotic Addiction Disease

A physician directly in charge of bona fide patients suffering from diseases known to be incurable such as cancer, advanced tuberculosis, and other diseases well recognized as coming within this class, may in the course of his professional practice and strictly for legitimate medical purposes, dispense or prescribe narcotic drugs for such diseases providing the patients are personally attended by the physician and providing the physician prescribes no quantity greater than that ordinarily recognized by his profession to be sufficient for the proper treatment of the given case, and that he endorses upon the prescription that the drug is dispensed in the treatment of an incurable disease, or if he prefers he may endorse it "Exception 1, Article 117". (This does not make provision for satisfying narcotic addiction disease incident. It makes no provision for increasing dosages which invariably result from the patient's increasing tolerance—for satisfying narcotic addiction disease which may be actually caused by the treatment of the incident incurable disease. Note particularly *EA* 17, 19 *to* 45). [*A*117*amd*—*PM* 6—*EA* 17, 19 *to* 45].

g. Treatment of Curable or Incurable Disease complicated by Narcotic Addiction Disease

(No provision has been made. Note "Treatment of Incurable Disease" above. Note particularly *EA* 17, 19 *to* 45).

h. Treatment of Narcotic Addiction Disease complicated by Curable or Incurable Disease

(No provision has been made. Note particularly *EA* 17, 19 *to* 45).

i. Treatment of Narcotic Addiction Disease without reference to Other Disease

Reductive ambulatory treatment is not allowed. [*PM* 7—*EA* 17, 19 *to* 45].

(No fixed rules are now given. Nevertheless methods

of treatment are very definitely limited. Note particularly *EA* 17, 19 *to* 45).

j. Prescribing, Dispensing or Administering for Narcotic Addiction Disease alone

Except that the addict is aged and infirm and a limited amount of narcotic drugs is necessary to sustain life, under no conditions may a physician prescribe or dispense narcotic drugs for the purpose of satisfying mere addiction or keeping a patient comfortable. [*A117amd —PM6—PM7—EA* 17, 19 *to* 45].

k. Aged and Infirm Addicts

Addicts suffering from senility or the infirmities attendant upon old age and who are confirmed addicts of years standing may be treated as addicts suffering from incurable disease. In such cases, if the narcotic drug is necessary to sustain life the physician may prescribe or dispense the minimum necessary to meet the absolute needs of the patient, but he must make a statement on the prescription to the effect that the patient is aged and infirm, giving age, and certifying that the narcotic drug is necessary to sustain life; or if he prefers he may endorse it "Exception 2, Article 117". [*PM7—EA* 19 *to* 45].

IV. EXEMPT PREPARATIONS

1. Defined

Exempt preparations are untaxed ready-made preparations and remedies made in accordance with U. S. P. or other established formula which, essentially, contain no cocaine or derivative of coca leaves, and do not contain more than one of the alkeloids, salts or derivatives of opium, nor more than 2 grains of opium nor ¼ grain of morphine nor ⅛ grain of heroin nor 1 grain of codeine or other salt to the fluid ounce, or, if solid, to the avoirdupois ounce. They must contain other active medicinal drugs, and if made unfit for internal administration they may contain more than the above stated amounts of opiates. [*S6—A141—A142—A143*].

2. Paragoric. Private Formulae

Paragoric is an exempt preparation but private formulae prepared by druggists and held in stock for physicians, and simple dilutions with sugar of milk, etc., are not. [*A142—A144—A146*].

3. To What Physicians the Law Applies

The law applies to physicians registered in Class V or in Classes IV and V. [*A21*].

4. Records

Physicians must keep a record of all sales, exchanges, gifts, etc. of exempt preparations, the entries to be made at the times of delivery. The record, blank forms for which purpose are not supplied by the Government, must show the name and address of the person to whom the preparation or remedy is sold, or exchanged, etc., together with the name and quantity of the preparation or remedy and the date of delivery. The record must be kept two years and be readily accessible to inspection by authorized officials. [*S6—A148amd*].

5. Prescriptions

Exempt preparations may be sold with or without prescriptions, and such prescriptions may be refilled. [*A120—A145*].

6. Order Forms

Order forms need not be used for ordering exempt preparations. [*A100amd—A147*].

V. PENALTIES AND LIABILITIES

1. General Penalty for Violation of the Law

Anyone who violates or fails to comply with any provision of the Harrison Act or Regulations is liable to a fine of not more than $2,000 or to imprisonment for not more than five years, or both. [*S9—A153*].

2. Penalty for False Registration

Any physician rendering a false return shall be imprisoned for not less than one year, nor more than five years. [*A11amd*].

3. Penalty for Non-registration

Physicians who deal in narcotic drugs in any manner without registering are liable to a fine of not more than $2,000, or to imprisonment for not more than five years or both. [*S1par8—A51*].

4. Penalty for Possession of Illegally Imported Narcotic Drugs

Anyone found in possession of narcotic drugs imported into the United States contrary to law, and knowing them to have been imported contrary to law, or who aids in the concealment, transportation, importation, or sale of such narcotic drugs, is liable to a fine of not more than $5,000 and imprisonment for not more than ten years. [*Narcotic Drugs Import and Export Act. Sec. 2 (c). See Appendix*].

5. Delinquency in Filing Statements, Returns, Etc.

a. If a physician fails to file any statement, return, etc., within the time prescribed by law, the Collector may make out such statement, etc., from his own and from such knowledge as he may obtain from testimony or otherwise.

b. If the delinquency is due to sickness or absence, the Collector may allow such further time, not to exceed thirty days, as he may deem proper.

c. If the delinquency is due to willful neglect and not from any reasonable cause, twenty-five percent of the amount of the tax will be added to the tax as penalty.

d. If a false or fraudulent return is willfully made, fifty percent of the amount of the tax will be added to the tax as penalty. [*A53*].

VI. INSPECTION OF RECORDS, ETC., BY AUTHORIZED OFFICIALS

1. What Officials May Inspect

The prescriptions and duplicate order forms required to be preserved and the statements or returns that are filed with the district Collector must be open to inspection by officers, agents, and employees of the Treasury Department duly authorized for that purpose; and such officials of any State or Territory, or of any organized municipality therein, or of the District of Columbia, or of any insular possession of the United States, as shall be charged with the enforcement of any law or municipal ordinance regulating the sale, prescribing, dispensing, dealing in, or distribution of narcotic drugs. [*S5—A134*].

2. Unnecessary Interference by Officials

Officials, in making inspections, will conduct their inves-

tigations in such manner as not to annoy or unnecessarily interfere with the affairs of the physician, whose business is subjected to examination. [*A*137].

3. Improper Disclosures by Officials

a. Authorized investigating officials must not disclose any of the information obtained from the records inspected, except for the purpose of enforcing the law—whether it is a Federal or State law or other statute enacted for controlling the traffic in narcotic drugs. [*A*138].

b. Unauthorized disclosures by Internal Revenue officers of information obtained from an inspection of physician's records is prohibited. [*A*138].

VII. LISTS OF HARRISON ACT REGISTRANTS

Collectors of Internal Revenue are authorized to furnish to any person, upon written request, a certified copy of the names of all persons registered under the Act in their districts. A fee of $1.00 is charged for each one hundred names furnished. [*S*5].

VIII. COMPROMISE OF LAW SUITS

It is the policy of the Internal Revenue Bureau not to allow any persons charged with willful violation of the provisions of the Harrison Act to compromise their offenses. The Commissioner of Internal Revenue may, however, compromise any civil or criminal action arising under the Internal Revenue laws—with the advice and consent of the Secretary of the Treasury. [*A*149*amd*].

IX. DISCONTINUANCE OF BUSINESS

To discontinue business on June 30 of any year, or on any other date, the physician must, on or before the date of discontinuance, dispose of all narcotic drugs and preparations on hand in the manner required. (See Part II, 7 of the Digest). He must also, on or before that date, return all unused order forms to the Collector for cancellation (see Part II, 2, *d* of the Digest) and he must in addition return the special-tax stamp or stamps (see Part I, 6, *b* of the Digest) to the Collector, who will mark each stamp "Business discontinued", with the date, and return such stamp or stamps to the physician to be filed with the cancelled order forms for two years. [*A*19½*amd*].

EDITORIAL ARTICLE

NARCOTIC DRUG LEGISLATION IN RELATION TO THE MEDICAL PROFESSION

By H. L. KIRBY

In General

1. In a spirit of *constructive criticism* only, it must here be stated that the present so-called "drug situation" is in part the result of the initial misinterpretation of the purpose of the Harrison Law by officials of the Treasury Department and by the general public, and in part the result of subsequent misinterpretations of the Law itself—the result of unfortunate influence upon the Treasury Department and upon the public by possibly well-meaning but misinformed reform organizations and individuals—in fact, the passage of the Harrison Law was the beginning of wholesale newspaper publicity and general anti-narcotic propaganda.

2. The Harrison Law went into effect March 1, 1915, in the guise of a tax measure, but with a moral end in view, and undoubtedly was one step toward a solution of the drug problem then existent. Its passage was in keeping with the attitude and expressions of the United States at the International Opium Conference at The Hague in 1912, and with the decision of the United States to live up to the obligations of the general situation as discussed there.

3. The actual purpose of the Law, as stated by those behind it at the time of its passage, and as interpreted by members of the American Medical Association, was to direct the dispensing and sale of narcotic drugs to, and through, legitimate channels.

4. That the law and its expressed purpose was highly favored by conservative medical men is evidenced in an editorial in the American Medical Association Journal, of April 24, 1915, containing the following statement, and at the same time indicating the interpretation of the medical profession:

"The Harrison Law does not restrict the rights of a physician to prescribe or dispense morphine as he may see fit, either to persons addicted to its use or to others. It only requires that a record of such transaction be kept. . . . . As an actual fact the Harrison Law would be a great boon to those physicians who attempt to cure addicts. The whole purpose of the law is to restrict the use of opium and cocaine to legitimate channels." Unfortunately, that Editor could not make the same statement regarding the actual effect of the Harrison Law and its regulations at the present time, because, although, as has been stated, the purpose of the law was to direct the use of narcotic drugs *to* legitimate channels, it was the opinion of the general public, and evidently also the opinion of the Treasury Department, that the purpose of the law was to direct and *control* the dispensing of drugs *in* legitimate channels. Particularly unfortunate is the fact that it has been the opinion of the public that the law was directed against the medical profession. This is confirmed in many newspaper headlines which appeared during that period, typical of which was one appearing in the Los Angeles Examiner of February 16, 1915, stating that "1732 Physicians Face Indictment Under New Law."

5. Because of the above indicated misinterpretation, and because state and local laws regulating the distribution of narcotic drugs have been passed in part influenced by the Federal interpretation, it may be stated in general on well established evidence that *existing Federal and State laws and regulations governing the use of narcotic drugs are such, or the interpretation of these laws and regulations is such, that the medical and scientific profession have been limited, in the legitimate distribution of opiates, to amounts less than the requirements of legitimate and necessary medical and scientific needs, with the result that successful treatment of complicated cases of drug addiction has been practically prohibited, and large numbers of addicted individuals, legitimately in need of the drug of their addiction for varying periods of time, have been forced to illegitimate sources of supply.*

The Law and Regulations

6. The enforcement of the Harrison Act, a tax measure, is in the hands of the Treasury Department. Section 1 of the Act authorizes the Commissioner of Internal Revenue to make the "needful rules and regulations necessary for carrying the provisions of this Act into effect", with the approval

of the Secretary of the Treasury. The Narcotic Division of the Prohibition Department is the unit actually supervising law enforcement activity in relation to the Act. Presumably Regulations 35, the Treasury Decisions amending or adding to Regulations 35, and Pro-Mimeograph 316, now in effect, are the "needful rules and regulations".

7. Though it is believed that these regulations are not within the limits of the original purpose of the Act as given at the beginning of this article, no attempt is being made here, or herein following, to advise the physician to break the law or regulations unless such willful violation be for the purpose of making a test case, and that only after assurance of cooperation from the Treasury Department and from unified medical interests has been obtained. On the other hand *herein is made a safe interpretation,* for the physician, of the law and regulations as now in effect. It is possible that the Treasury Department, or other officials, may take exception to the interpretation of the law as made herein, particularly to the prescribing, dispensing and administering sections, and to the general inconsistencies pointed out, but it must be recognized that, while the interpretation is admitted to be very strict, it is *safe,* and a physician, after consideration of the understanding of the subject on the part of enforcement officers, prosecuting officials, the juries, the courts and the newspapers, cannot afford to interpret otherwise.

8. Pro-Mimeograph 316, outlining specific conditions under which narcotic drugs may be prescribed, dispensed, or administered, is labeled as being "advisory only". *However, Pro-Mimeograph* 316 *is at the present time being sustained by the courts,* and in practical effect it is *not* advisory. On the other hand it definitely establishes certain limits within which a physician must at the present time operate, irrespective of his personal opinion, or the opinion of the medical profession in general.

9. Section 1 of the Act, containing in fact the fundamental provisions and indicating to whom the Act applies, states that every person who imports, manufactures, produces or compounds, etc., opium, coca leaves or their derivatives shall register with the Collector of Internal Revenue of the district, pay taxes and meet certain other requirements given therein. *Nothing is there stated about the prescribing of drugs by a physician. However,* Article 30 of the Regulations, the only place in the Regulations referring to the mat-

ter, states, *"Practitioners who prescribe narcotic drugs must pay the tax even though they do not keep such drugs in their possession."* By inference, physicians who *prescribe only* must register.

10. Section 2 of the Act states that, providing a physician shall keep certain records as listed, nothing contained in the section shall apply to the dispensing or distribution of drugs to a patient by a physician in the course of his professional practice, or to the sale of drugs by a dealer to a consumer in pursuance of a prescription written by a physician registered under the Act. *However,* what does, and what does not constitute a prescription within the meaning of the Act is very definitely fixed by Article 117 of Regulations 35, and the limits of "legitimate medical practice", and "legitimate dispensing and prescribing", and the requirements of "bona fide patients", are very definitely fixed both by Article 117 and by Pro-Mimeograph 316, and *it would certainly be unwise for any physician to prescribe or dispense narcotic drugs in accordance with a normal interpretation of Sections 1 and 2 of the Act alone.*

11. Article 126 of the Regulations states that a practitioner is not considered to be in "personal attendance" upon a patient within the meaning of the law unless he is in personal attendance upon the patient away from his office. That meaning does not apply to the words "personally attending" where given in Pro-Mimeograph 316 under the outline for treatment of incurable disease. This is confirmed by the Narcotic Division. The interesting point about this particular ruling is that, subject to the regulations, a physician may dispense narcotic drugs to bona fide patients (patients determined to be bona fide by the regulations) without the use of order forms or prescriptions, providing a record of all drugs so dispensed is kept when the patient calls upon the physician. When a physician calls upon a patient away from his office, that is, when he is in "personal attendance" upon the patient, he need keep no record of narcotic drugs dispensed or administered.

12. It is stated in Pro-Mimeograph 316 (so-called advisory only, but sustained by the courts) that the good faith of a physician and the bona fides of his treatment in a given case may be established by the facts and circumstances of the case and by the consensus of medical opinion with regard thereto. It must be remembered, however, that, though this is some safeguard for the physician treating addiction, so few of

the medical profession as a whole have a broad understanding of the problem, and, unfortunately, it is so easy to find that type of physicians who have their own specific "cure-alls" for the problem or a personal interest in sensational publicity, that it is never difficult for prosecuting officials to obtain presumably expert testimony, and often certainly more impressive testimony, in an attempt to refute the testimony of a physician indicted.

13. With reference to the determination of legitimacy of prescribing, dispensing, or administering in a certain case, the Treasury Department evades all responsibility. Pro-Mimeograph 316 states that the Department is not charged with laying down fixed rules as to the furnishing of drugs or as to frequency of prescribing, but that the responsibility rests with the physician in charge of the case. It certainly does, but absolutely no authority is given the physician to match that stated responsibility; instead arbitrary rules are laid down, and it is an actual fact that when a physician goes to a narcotic-agent-in-charge to obtain permission or advice to prescribe or dispense in a certain case, the agent invariably states, "You're a physician, the law is clear; if in your professional judgment the patient needs narcotic drugs, prescribe them." But *if* in the physician's professional judgment he does prescribe them—he may be arrested. Obviously if there is a lack of authority given the physician, there will be many instances where he will refuse to dispense to legitimate patients because he cannot scientifically state that a certain condition is incurable, particularly within the meaning of that word as given by the regulations, although the condition may be incurable in a practical sense.

14. In considering a physician's responsibility and authority in relation to the Harrison Act, it is of value to note that, in a prosecution against a physician for violation of the Harrison Act, section 2 (Comp. St., sec. 6287h), by dispensing narcotics to habitual users of the drug, *the exclusion of a letter from the Commissioner of Internal Revenue in response to a question by the defendant physician as to dispensing of narcotics, was held proper by the court.*

15. In discussing narcotic drugs it is difficult to use terminology that will not be open to some criticism by some medical men. This because there is a general lack of knowledge and a wide difference of opinion even among recognized authorities as to what is a narcotic and what is not, and as

to the actual condition resultant from prolonged use of opiates and resultant from the prolonged use of cocaine or its derivatives. In this article the term "narcotic drugs" is used to include both opiates and cocaine or derivatives.

16. Bishop states that narcotic addiction is "a physical condition in which continued administration of narcotic drugs, from whatever cause or origin and in whatever type or class of individuals, has set up within the body a mechanism, or process, which manifests itself in the production of definite and constant symptoms and signs and characteristic phenomena, appearing inevitably upon the lessening of the amount of drugs." One cannot at the present time, on a basis of present amount of research, scientifically either affirm or deny the correctness of this definition. The writer has in part agreed with Bishop's definition, and the writer at times, in attempting to explain to laymen (other laymen) the difference between the effects of opium and the effects of cocaine, has stated that opium was a "disease-producing" drug, and that cocaine, though like opiates in that it was a "habit-forming" drug, did not produce a pathological condition of the user wherein continued administrations were vitally necessary; that is, *instant total withdrawal of cocaine will not result in serious consequences to the user.* By "habit forming drug" the writer means one the prolonged use of which, by formation of so-called "toxic" conditions in the body, by relief from pain, by sensuous reaction, or by a combination of all or any two of the foregoing, may place the user in such a mental or physical condition, or both, wherein it may be very difficult, if not impossible, for him to voluntarily discontinue use of the drug—in degree, subject to the physical condition and personality factors of the user.

17. Regardless of the exact effects of either drug it can be stated here, sustained by positive evidence, that *habitual use of opiates presents a problem entirely different from that presented by habitual use of cocaine or its derivatives, and that the effect of the prolonged use of opiates is very different from the effect of the prolonged use of cocaine or its derivatives,* and the point that is necessary to be established here is this: where attention is drawn in this article to limitations in the work of the medical profession because of existing rules and regulations, it should be remembered that *these limitations are in no way resultant from the rules and regulations applying to cocaine or its derivatives,* but only from those applying to opiates and to that which may or may not be correctly termed "opium addiction disease".

18. In Pro-Mimeograph 316 and in Article 117 of the Regulations, provisions and restrictions for the actual prescribing, dispensing, and administering of narcotic drugs are given, under only the following classifications:

In treatment of acute conditions.
In treatment of incurable disease.
In treatment of addiction only.
In prescribing for aged and infirm addicts.

19. Incident to other statements in connection with the above headings is the following:

"Physicians will be charged with violation of the law if through carelessness or lack of personal attention the patient secures more narcotic drugs than are necessary for medical treatment and devotes part of his supply to satisfy addiction."

20. In addition it is stated that—

"An order purporting to be a prescription issued to an addict or habitual user of narcotics, not in the course of professional treatment in an attempted cure of the habit, but *for the purpose of providing the user with narcotics sufficient to keep him comfortable* by maintaining his customary use, *is not a prescription within the meaning and intent of the act.*"

21. It is also stated that—

"*Under no conditions* may a physician prescribe or dispense narcotic drugs for the purpose of satisfying mere addiction."

22. Regardless of what the regulations as given may otherwise infer, a strict interpretation of the preceding three positive statements establishes the following restrictions with reference to prescribing, dispensing, or administering:

23. Though a physician may prescribe, dispense, or administer for treatment of certain acute conditions, he cannot prescribe, dispense, or administer for collapse or other serious acute condition brought about by withdrawal of narcotics, because by so doing he would be satisfying the addict's addiction disease. Under this same interpretation of the law a physician might well hesitate in prescribing narcotic drugs for other well recognized acute conditions where narcotic addiction is incident. This statement may appear to be exaggerated, but the law is not clear, and it is an actual fact that

patients brought into certain county hospitals with legitimate acute or curable disease conditions have been turned out of the hospital and refused treatment because addiction disease was found incident and the hospital officials were afraid of conflict with the laws.

24. Though the regulations make provision for the prescribing, dispensing or administering of narcotic drugs in treating incurable disease, no provision is made for the treatment of incurable disease complicated by addiction disease—because in the Regulations the fact is not recognized that, to successfully treat any incident disease of an addict, during the period necessary the addict must be given sufficient of the drug he is using to keep his body in drug balance, to satisfy his tolerance for the drugs—to keep him comfortable.

25. The fact is not recognized that a doctor may be forced to create an addict out of a patient while necessarily, and regularly and lawfully, prescribing narcotic drugs for an incident disease condition.

26. The fact is not recognized that the majority of patients receiving administrations of narcotic drugs show an increasing drug balance, develop an increasing tolerance. There is no way of estimating what the limit of tolerance may be, but whatever it is, that tolerance, or drug balance, under many conditions, must be satisfied. As early as June 19, 1915, Dr. George D. Simon, editor of the American Medical Association Journal, anticipating that the wrong kind of regulations might be placed in effect as the result of the passage of the Harrison Law, stated in the Journal of that date, "In cases of chronic or incurable disease, prescriptions will show an increased dosage or an increased quantity."

27. As indicating the high tolerance which may be experienced in some cases, and as illustrating the difficulty confronting the physician who attempts to prescribe or dispense for treatment of incurable conditions incident to narcotic addiction disease, the following case history, of a man who has been under the surveillance of the writer for a year, should be very interesting:

28. Building contractor. Past history of morphine addiction and opium smoking intermittently over a period of ten years. Normal in weight, appearance, and general characteristics except as resultant from injury. Married. Two children in school. Successful in business. Assets over $30,-

000 or more. Income of $20 a day. Had used no drug for period of four months previous to motorcycle accident—a serious spinal cord injury resulting in partial paralysis of the lower limbs. Physician's records show he was not expected to live after accident. Was given a great deal of morphine immediately following. Rapidly developed a high tolerance for the drug—20 to 30 grains a day. Previous to accident had used 10 to 15 grains a day. One attempt at reduction was made after accident, in an institution, but he was unable to stand the strain of withdrawal. For a period of a year and a half following accident one physician prescribed him morphine in varying amounts of from 20 to 25 grains a day. The physician eventually found out that the man was buying an additional 20 to 25 grains a day from peddlers. Patient was using it all necessarily. No evidence has ever been given to indicate that any of the drugs prescribed to this patient have ever been used for illegal purposes. It has been necessary for the patient throughout this period of time, and at the present time, to take injections of 20 grains or more in the morning to loosen up sufficiently to get out of bed. When the physician in charge found out that the patient was using this large amount in excess of what was being prescribed, he then prescribed the patient sufficient to take him out of association with peddlers, and since that time has prescribed 47 to 50 grains a day.

29. The physician in charge of the case was arrested and received a great deal of newspaper notoriety as a result. The prosecuting officials charged that the amount prescribed was abnormal and unnecessary and insisted that the drugs were being prescribed in part for illegal use. The patient offered to submit himself without restriction for examination and observation to any group or individuals representing the prosecuting officials. The fact that the patient was taking 20 grain injections, and the fact that he was willing to permit daily injections of over 50 grains, was in itself sufficient evidence that he had developed an exceptionally high tolerance for the drug. The suit against the physician was eventually compromised and placed in the hands of a group of conservative members of a prominent medical association for examination and opinion. After unbiased supervision and examination along neurological and pathological lines, the physicians making the examination admitted they were unable to make recommendation that the dosage be reduced. The patient is still being prescribed that amount of drugs. He is a normal member of society and has no conflict with

the law. Narcotic agents are still of the opinion that the amount prescribed is abnormal and that the physician is prescribing the drugs for commercial benefit.

30. In another recent case and arrest of a physician the prosecuting attorney endeavored to obtain an admission from the physician that he had been prescribing drugs to a certain woman patient for the "treatment of tuberculosis". The physician admitted that he was prescribing within that exception. The prosecuting attorney insinuated to the jury that the physician, prescribing in the *treatment of tuberculosis,* was necessarily prescribing in the *treatment of tuberculosis to affect a cure.* The attorney then placed medical testimony on the stand to testify that the prescribing or administering of opiates was not a recognized *treatment to effect a cure* of tuberculosis. Unfortunately, this case also was not finished in court, but was dropped at this point and left in the hands of a medical committee of the County Medical Association for opinion. Naturally the committee brought out the fact that the physician was prescribing the morphine to this patient to alleviate the pain, and that he was prescribing neither to cure the patient's addiction disease, nor to cure the patient's tuberculosis condition. The representatives of the prosecution finally admitted the legitimacy of prescribing for the alleviation of pain, but denied that the amount prescribed, approximately 10 grains a day, was legitimate. As a matter of fact if it is necessary to prescribe any morphine at all to a patient, there is no real reason why the amount prescribed should not be 20 grains a day as well as one grain, providing only that no evidence can be introduced to show that the drugs so dispensed are used for illegitimate consumption, and providing that the doctor by so doing is satisfying the patient's tolerance and keeping the patient out of a criminal atmosphere.

31. Even curable disease conditions when complicated by narcotic addiction disease cannot be successfully treated because a patient cannot be treated for both conditions at the same time, and the physician is not allowed by law to prescribe to satisfy the addiction disease during the period necessary for treatment of the incident curable condition.

32. In regard to the treatment of narcotic addiction alone no rules are given specifically, under that heading. The regulations state that "mere addiction alone is not recognized as an incurable disease". The regulations also state that, "it is

well established that the ordinary case of addiction yields to proper treatment, and that addicts will remain permanently cured when drug taking is stopped and they are otherwise restored to physical health and strengthened in will power". All of which means nothing. The one provision of the regulations given which states that reductive ambulatory treatment is not allowed undoubtedly will be approved by the majority of medical men.

33. Though the writer personally is not in favor of the so-called reductive treatment, because he believes, as others have stated, that the gradual reduction method is the most effective way of prolonging the mental disorder incident to drug addiction disease, there are many situations in which the gradual reduction method of treatment appears to be the only solution. However, *of least importance is the length of time given in treatment; of great importance is the length of time given to preparation for treatment.* It is a matter of common knowledge even among laymen that the majority of addicts are not in normal physical condition, and the law makes absolutely no provision whereby an addict can be cured of an incident disease, if necessary, or can be placed in such proper physical condition as may be necessary before attempt at cure of his addiction disease is begun. That is, as repeatedly stated, the physician cannot satisfy addiction disease while curing an incident disease, or while attempting to put the addict in a physical and mental condition to stand the strain of withdrawal of narcotics.

34. In the treatment of addiction the *most important element to be considered is the personality element. The most important treatment is the functional treatment.* The fact that an addict may be cured of the physical aspect of narcotic addiction is absolutely no assurance that he will remain off the drugs. The environment and physical condition of the patient after withdrawal of narcotics will have some bearing, obviously, but *the permanency of the cure depends, in fact, upon—the "kind of a dog he is".*

35. There are numbers of addicted individuals who are normal in other respects, who have no disease condition other than addiction disease, who are meeting their responsibilities in life, raising their families, running their elevators, conducting their banks, or whatever line of business they may be engaged in, who have had no conflict with the law, whose only contact with a criminal atmosphere is the contact with the peddler through whom they purchase their drugs, and

who are absolutely *incurable on a basis of personality alone.* Considering the degree to which the medical profession is in a position to functionally treat addiction today, such cases might well be diagnosed as chronic morphinism, *and chronic morphinism might well become a legitimate excuse for prescription of narcotics.*

36. As illustrating an organic disease condition which is incurable in a practical sense, but which is not within the incurable classification as provided by the law, and where a personality element combines with the presumably incurable organic condition to produce an incurable narcotic addiction, is submitted the following history of a woman who came into the office of the writer, asking for aid and for relief from the financial strain caused by purchasing narcotic drugs through peddlers:

37. Age 36. Scotch-Irish-English. Born in Virginia. Mother was old at time patient was born. Father was truck farmer. Mother died of consumption. Father died of old age. Three brothers. Two sisters. Two brothers gave constant history of bronchial trouble. Only family instinctive ability recorded—music. In general family very temperamental. All had malaria at one time or other. Mother had scrofula as a young woman and probably syphilis. Patient complained of stomach trouble at six years of age. Patient had regular childhood diseases. In addition had scrofula. Unhappy as a child. At 13 yrs. of age—typhoid fever. Was partly blind for short time at 13 yrs. of age. Menstruation at 13 yrs.—irregular and suppressed. Stomach trouble and nervous breakdown. Was invalid for eight years. Complained of stomach being sore at all times. Married at 18 yrs. One child—daughter born at 20 yrs. At 30 yrs. pneumonia and influenza.

38. Patient had been operated on at 21 yrs. by physician who thought stomach trouble was reflex. Was given first opium at that time. One ovary and part of the other and appendix removed at the same time. Morphine was given during the operation and then again after five weeks. Morphine was given constantly after patient left hospital. Morphine was taken by mouth and by hypodermic. Three months is the longest time the patient has ever gone without drugs during a period of 15 years. Patient now takes 5 or 6 hypo's daily. The operation did not help the so-called chronic indigestion. Physicians have been unable to com-

pletely diagnose her case, and have been unable to give effective aid. Patient has had several so-called drug cures. She vomits every day and once in a while has a haematemesis. Recently had inflammation of the bladder. Says all her organs go dead. She never feels well.

39. The daughter is normal in appearance, but nervous and unstable. Daughter attending High School. Husband is a butcher. Patient has been married three times. First husband divorced. Second husband killed. Gross income of family $175 a month. Patient's family have had no conflict with the law. They live in a home given them and maintained by the husband's parents. The morphine used by the patient is purchased by her husband from a negro peddler. They pay $50 every two weeks, or approximately $105 a month for the drugs. The morphine is impure and often makes her sick. Patient has but one source from which the morphine may be obtained. Sometimes the patient receives powdered chalk, or sugar of milk, or Epsom Salts instead of the morphine she is supposed to be buying. She has no recourse after having made such a purchase.

40. A recent careful general medical examination revealed no serious organic disease condition. The doctor who made the examination diagnosed the case as "chronic morphinism".

41. This patient has been referred to conservative medical men. They believe that, in consideration of the physical condition of the patient together with the personality element, the patient is an incurable addict. These physicians will not prescribe for the patient, however, unless permission is granted by officials. The officials say the decision is up to the doctors. It is believed that laws should be such as to enable this woman to be a more normal member of society by allowing her to obtain her drugs through legitimate channels.

42. An interesting fact in connection with the above history is that narcotic agents threatened to force the writer before a grand jury for the purpose of obtaining from him information that would enable them to apprehend the peddler—the attitude of the agents on this case being similar to the attitude which they had assumed in regard to others of a similar nature.

43. The regulations permit the prescribing or administering of narcotic drugs to aged or infirm addicts providing they

are confirmed addicts of years' standing, and providing "narcotic drugs are necessary in order to sustain life". Obviously it would be impossible for any physician to *positively* state in every case that narcotic drugs are *necessary* in order to sustain life. Obviously, also, the physician's inability to make such positive declaration can only result in his being unable to prescribe for old age or infirm addicts at all times that such prescribing is advisable.

44. In brief it can be stated that, because of the rules and regulations as they now stand, contrary to the purpose of the Harrison Act and contrary to Sections 1 and 2 of the Act, *a physician is prohibited from prescribing, dispensing, or administering narcotic drugs for—*

a. *Treatment of acute conditions resulting from narcotic addiction disease.*

b. *Treatment of acute conditions incident to narcotic addiction disease.*

c. *Treatment of curable or incurable disease complicated by narcotic addiction disease.*

d. *Treatment of narcotic addiction disease complicated by curable or incurable disease.*

e. *Preparing narcotic addicted individuals for treatment of narcotic addiction disease.*

f. *Chronic morphinism.*

In Conclusion

45. The writer at various times has remarked that it is impossible under existing regulations to treat addicts in a manner that will permit of their permanent cure—except in the comparatively few normal cases. That may be an unscientific statement. However, it is here stated definitely, and after consideration, that *any physician who attempts to devote his time to the treatment of narcotic addiction disease at the present time, no matter how conservative he may be, or conscientious, or careful, or no matter how humanitarian his purpose, will invariably come into conflict with laws.* It is hoped that medical men will realize this, and when they do, and if they do, it is hoped that they will either take unified action to change conditions, or else throw up their hands entirely and refuse to treat addiction at all under present dictation. The sooner one or the other is done, the sooner

will a situation be precipitated whereby the public will realize the facts.

46. Two classes of physicians, though in a minority, are making the situation difficult of solution. A few physicians continue to break the law with impunity, and unfortunately, when they are caught, too many attempt to excuse themselves rather than stand on their rights as a physician and openly admit they have broken a strict interpretation of the law. The other group who make the situation difficult for the conservative medical man, are the "quack" type, who claim to have "cure-alls" for the situation, "specific cures" of some compound or other, and who repeatedly declare that the prescribing or dispensing or administering of narcotic drugs is never necessary.

47. More than a large majority of physicians today have devoted insufficient time to the study of narcotic addiction, partly owing to the red tape, and partly owing to the sordidness usually incident. They simply throw up their hands when an addict walks into their office. I cannot but here state, however, that in so doing, they are sidestepping a very definite and obvious medical responsibility; and also by so doing they are throwing an unjust load upon the very few physicians who are attempting, in spite of the laws, to meet their obligation with respect to the narcotic addiction diseased *sick* individual.

48. Not only do the majority of physicians refuse to have anything to do with the problem, but they have little sympathy for, and they render little aid or cooperation to, the physician who has come into conflict with the law. In this regard so-called medical ethics have been a decided detriment, as have medical ethics in other similar situations. It has, as the writer has stated, enabled the medical profession to sidestep their own responsibility, and leave the interpretation of the law in the hands of laymen, with the result that the problem has been commercialized, and the wrong kind of legislation has been precipitated by an hysterical public whose attention has been constantly drawn to the sordid side of the situation, to a *presumed* great increase in narcotic addiction; to a *presumed* causative relationship between drug addiction and crime; to a *presumed* wide use of narcotics by school children. In this last regard most unfortunate is the situation at the present time wherein certain misguided self-styled social leaders are attempting to educate school children *against* the so-called menace of the drug problem by educat-

ing them *to* the sordidness of the problem. It is nothing short of a crime that these individuals who harp on drugs one minute, or on sex hygiene or some other scarehead the next, should be allowed to appear in public schools. You can educate children to the existence of a sordid problem, but you cannot by educating them to it protect them against it. Generally speaking, with reference to children and in relation to problems of this kind, *innocence is the finest thing in the world and the best protection;* experience is the most regrettable thing, and always the least protection.

49. There must be clinical and laboratory research work covering general medical, psychiatrical, neurological, pathological, and psychological phases of narcotic addiction. Particularly there must be functional research. In fact, the question of drug addiction is not: Can the addict be taken off the drug? It is: What kind of an individual was he before he ever took drugs?

50. There must be unified action on the part of County Medical Associations, the American Medical Association, and medical men in general. There must be a dissemination of scientific facts to the general public, to the end that influence may be brought on the Treasury Department to secure a more scientific and medical interpretation of the Harrison Act and its regulations, and eventually to bring about better state and local legislation.

51. The responsibility rests with the medical profession.

APPENDIX

REGULATIONS NO. 35

The relevant parts of such Articles of the Regulations as have been amended between November, 1919 and October 1, 1925, and as are referred to in the Digest. (N. B. Dotted lines indicate the omission of irrelevant parts of the amended Articles.)

ARTICLE 6

As amended by Treasury Decision 3139 of March 2, 1921
As amended by Treasury Decision 3662 of Jan. 27, 1925.

Manner of Registering—Every person required to register (see arts. 4 and 5) must execute a return or application for registration (hereinafter referred to as "return" or "application") on Form 678 or 678a (see art. 11), obtainable from the collector of the district in which the taxpayer does business or practices his profession. The form, when executed, should be transmitted to the collector, accompanied by a remittance of the amount of the tax or taxes . . . . . .

ARTICLE 11

As amended by Treasury Decision 3139 of March 2, 1921.
As amended by Treasury Decision 3662 of Jan. 27, 1925.

Evidence of Qualification—New Applicants — An applicant who is not qualified in any class under the Act at the time he makes application for registration thereunder must make such application on Form 678a. The return must be supported by an affidavit showing the applicant to be legally qualified or permitted under the laws of the jurisdiction in which he proposes to engage in any business or occupation within the scope of these regulations, to engage in such business or occupation, and must state whether he has been engaged in any business or occupation at the address given for the period of three months immediately preceding the filing of the application. If he has not been so engaged for a period of three months, he must disclose in his return his last previous occupation or business, giving his address at such time, or if employed, the name and address of his employer. Each such return shall also be accompanied by, as references, the names and addresses of at least two reputable citizens of the community in which the applicant proposes to engage in

an occupation or business within the scope of these regulations, or in lieu thereof, as references, the names and addresses of at least two reputable citizens of the community in which he was last previously engaged in any business, occupation or employment. Should the new applicant be a partnership, each partner must comply with the requirements of this paragraph; if a corporation, a certified copy of its articles of incorporation or corporate charter must be filed with the collector and the principal officers must comply with the requirements of this paragraph.

The collector will then refer the application with supporting documents to the Supervising Federal Prohibition Agent of the Department in which the applicant proposes to engage in a business or occupation within the scope of these regulations, for his information, investigation, and approval or recommendation for rejection. It shall then be returned by the Supervising Federal Prohibition Agent with his approval or appropriate recommendation to the collector. Unless the applicant's qualifications are found to be satisfactory, the application will be rejected by the collector.

Renewals—A person qualified in one or more classes under the Act at the time application is made for registry in any class will make renewal application on Form 678. The return must be supported by an affidavit showing the applicant to be legally qualified or permitted under the laws of the jurisdiction in which he is engaged, or proposes to engage, in any business or occupation within the scope of these regulations, to engage in such business or occupation. Unless the evidence of qualification is satisfactory, the application will be rejected.

False Applications—Section 3451 of the Revised Statutes provides that any person rendering a false return shall be imprisoned for not less than one year nor more than five years . . . . . .

ARTICLE 12

As amended by Treasury Decision 3020 of May 19, 1920.

Inventory Required—Every person, firm or corporation making application for registry or reregistry in any class, except classes 1 and 2 (see art. 21) must on December 31 preceding the date of his application or any date between December 31 and the time of applying for such registry or reregistry, prepare under oath or affirmation, in duplicate, an inventory of all narcotic drugs and preparations . . . . . on hand at the time of making such inventory. The inventories must be prepared on Form 713, copies of which may be obtained from collectors upon request, and if the taxpayer is engaged in more than one of these classes of business a separate form of inventory must be prepared

for each class in which he is registered. Class 5 registrants are not required to make an inventory of preparations or remedies exempt under Section 6, but they are required to make an inventory of all non-exempt narcotic drugs and preparations in their possession on the date of application or inventory of any date between December 31 and the date of making such application. The original inventory must be kept on file by the maker, and the duplicate forwarded to the Collector. Collectors will refuse to register any applicant in class 3, 4, or 5, who fails to furnish a copy of the inventory as required.

ARTICLE 15

As amended by Treasury Decision 3662 of January 27, 1925.

Dual Liabilities—One who belongs to more than one taxable class (see art. 21) must indicate on the application submitted in the blocks provided for that purpose each class for which application for registry or reregistry, as the case may be, is made. Ordinarily, only one registry number will be assigned, but one who has qualified as a member of class 4 must be assigned a separate number with respect to that class only, even though he is also registered as a member of class 1, 2, or 3. However, when one has registered as a member of classes 4 and 5 only, he will operate as a member of class 5 under the number assigned to him as a member of class 4.

If one is engaged in business or carries on an occupation as a member of one class only, but at two or more different addresses, he must make return, and a separate number will be assigned, with respect to each place separately. As to tax liability see articles 22 and 23.

ARTICLE 19½

As added by Treasury Decision 3750 of September 1, 1925.

Discontinuance of Business—Business may be discontinued on June 30 of any year by disposing of all narcotic drugs and preparations on or before that date (see art. 154, paragraph 3), unused order forms to be returned to the collector for cancellation (see art. 112) on or before the date of discontinuance. The same procedure must be followed in discontinuing business on any other date and in addition the special-tax stamp or stamps (see art. 55) must be returned to the collector, who will mark each such stamp "Business discontinued" with the date, and return the same to the taxpayer to be filed with the narcotic order forms for a period of two years.

ARTICLE 100

As amended by Treasury Decision 3201 *of July* 22, 1921.

Purpose of Order Forms—Order forms are required to be used so that transfers of narcotic drugs from one person to another may be traced and the proper person held responsible in case of their misuse. The correct use of order forms is of the very highest importance, and no violation of the regulations with respect thereto will be tolerated. Each collector will be held responsible for the order forms which he receives. Registered persons will likewise be held responsible for the unused order forms in their possession and should keep such forms in a safe or under lock and key to prevent their falling into the hands of unauthorized persons.

Order forms must be used only for the procurement of narcotic drugs and preparations within the purview of the law. They should not be used for ordering preparations which do not contain narcotics nor need they be used for ordering exempt preparations. With respect to exempt preparations, see articles 139 to 148. . . . . .

ARTICLE 109

As amended by Treasury Decision 3460 *of April* 6, 1923.
As amended by Treasury Decision 3473 *of May* 5, 1923.
As amended by Treasury Decision 3531 *of Nov.* 16, 1923.

Manner of Preparation—

Date—The full and exact date when the order form is actually made out must be inserted by the purchaser.

Purchaser's Qualifications—The purchaser must at the time the order is made out by him be registered under the Act at the location and in the classes with the registry number specified thereon by the collector and must have paid the special taxes necessary to qualify him in such classes for the fiscal year ending on the following June 30th. He must also be likewise qualified for the fiscal year within which the merchandise is received. Any person executing and presenting for filling an order form who at the time of such execution is not so registered and has not paid the necessary special taxes will be liable to the penalties provided by law.

Name, etc., of Purchaser—The name, address, registry and class numbers, and district of the purchaser as inserted by the collector must not be changed by either the purchaser or consignor in any manner whatsoever. The merchandise requested on the form may be sent only to the person designated by the

collector and at the location specified by him. The name of the person or firm executing the order must be shown in the lower left space of the form if the purchaser is not an individual; if the purchaser is an individual, this space may be left blank. The signature of the purchaser, or his attorney or agent (see art. 108) must be shown in the lower right space of the form.

Items—Only one item may be entered on each numbered line and not more than ten items may be entered on a single order form. The number of items entered on the form must be stated by the purchaser in the space provided near the top of the form for that purpose. The purchaser must show with respect to each item the number of stamped packages desired, the size of each such package in terms of pounds, ounces, grains, pills or tablets, (indicating size), if in a solid form, or, in gallons, quarts, pints, or ounces, if in liquid form, and the name of the article desired, stating the name of the narcotic drug contained therein if the article is not itself a pure narcotic drug. A separate item must be made for each article of different description or size, but one item may consist of any number of packages of the same size and description. The furnishing by the purchaser of the catalog number is optional. The consignor must enter upon the order form received the number of stamped packages furnished for each item and the date when each item is filled. If an item is not filled in its entirety on a certain date, the consignor must show upon the order form the number of stamped packages then furnished and indicate thereon the date and number of stamped packages of each subsequent shipment made to cover any part or all of the remainder of the order.

Unused Order Forms—All unused order forms in the possession or under the control of any person who at any time discontinues the business for which such order forms have been secured must be returned for cancellation to the collector who issued them. If discontinuance is made for one or more classes and business continued in one or more classes, all unused order forms in the possession of the registrant on the date of such discontinuance must be returned to the collector. . . . . .

ARTICLE 109½

As added by Treasury Decision 3460 of April 6, 1923.
As amended by Treasury Decision 3473 of May 5, 1923.
As amended by Treasury Decision 3531 of Nov. 16, 1923.

Who May Fill—Unless an order form calls only for one ounce of an aqueous narcotic solution it may be filled only by an

importer, manufacturer, producer, compounder, or wholesale dealer (a class 1 or 2 registrant—see art. 21); if filled by any other person liability to tax under the Act as a producer will be incurred by the vendor if broken or unstamped packages are supplied, and liability to tax thereunder as a wholesale dealer will be similarly incurred if stamped packages are furnished.

Alterations—No alteration, erasure, or change of any description may be made in any order, or in the endorsement thereon, by any person. The merchandise requested on an order form may not be furnished if the form shows any alteration, or erasure, or evidence of any change whatsoever. If an order is not properly prepared in every respect it must be returned to the person who executed it. Each order form returned because of improper preparation must be retained on file with the duplicate thereof and a new form prepared if the articles are still desired.

ARTICLE 111½

As added by Treasury Decision 3373, of July 19, 1922.

Stolen and Lost Order Forms—Whenever any used or unused order forms are stolen from, or lost (otherwise than in course of transmission) by any person registered under the Act, he shall immediately upon discovery of such theft or loss, report the same to the Commissioner of Internal Revenue, Washington, D. C., stating the serial number of each duplicate and original form stolen or lost. If the theft or loss includes any original orders received from other persons and the registrant is unable to state the serial numbers of such orders, the date of receipt thereof and the names and addresses of the purchasers thereunder should be stated. If the theft or loss is of or includes any entire books and the registrant is unable to state the serial numbers of the duplicate and original forms contained therein, the theft or loss shall in like manner be reported to the Collector of Internal Revenue from whom such books were purchased, instead of to the Commissioner of Internal Revenue, with a statement, in lieu of the numbers of the forms contained in such books, of the date or approximate date of purchase thereof; and the Collector immediately upon receipt of such report shall transmit the same to this office together with advice from his records (Form 679) of the serial numbers of the forms contained in such books. . . . . .

ARTICLE 117

As amended by Treasury Decision 3426 of January 12, 1923.

Purpose of Issue—A prescription, in order to be effective in legalizing the possession of unstamped narcotic drugs and elim-

inating the necessity for use of order forms, must be issued for legitimate medical purposes. An order purporting to be a prescription issued to an addict or habitual user of narcotics, not in the course of professional treatment in an attempted cure of the habit, but for the purpose of providing the user with narcotics sufficient to keep him comfortable by maintaining his customary use is not a prescription within the meaning and intent of the act; and the persons filling and receiving drugs under such an order, as well as the person issuing it, will be regarded as guilty of violation of the law. (See Treasury Decision 2809 dated March 20, 1919).

Exceptions—Exceptions to this rule may be properly recognized (1) in the treatment of incurable disease, such as cancer, advanced tuberculosis, and other diseases well recognized as coming within this class, where the physician directly in charge of a bona fide patient suffering from such disease prescribes for such patient, in the course of his professional practice and strictly for legitimate medical purposes, and in so prescribing, indorses upon the prescription that the drug is dispensed in the treatment of an incurable disease (or if he prefers he may indorse upon the prescription "Exception (1) Art. 117"); and (2) where the attending physician prescribes for an aged and infirm addict whose collapse from the withdrawal of the drug would result in death and in which case he indorses upon the prescription that the patient is aged and infirm, giving age, and that the drug is necessary to sustain life (or if he prefers he may indorse upon the prescription "Exception (2) Art. 117").

ARTICLE 119

As amended by Treasury Decision 3426, January 12, 1923.

Manner of Execution—Practitioners—All prescriptions for drugs and preparations not specifically exempt under section 6 of the act (see arts. 139 to 148) must be dated as of and signed on the day when issued and must bear the full name and address of the patient and the name, address, and registry number of the practitioner. A physician may sign prescriptions in the same manner as he would sign a check or legal document, as, for instance: J. H. Smith, John H. Smith, or John Henry Smith. Prescriptions must be written with ink or indelible pencil or typewritten; if typewritten, they must be signed by the practitioner with ink or indelible pencil.

Druggists—The druggist who fills a prescription must preserve the prescription for a period of two years from the date indicated thereon. (See art. 124).

ARTICLE 148

As amended by Treasury Decision 3426 of January 12, 1923.

Records— Every manufacturer, producer, compounder, or vendor (including dispensing physicians) of exempt preparations must keep a record of all sales, exchanges, gifts, etc., the entries to be made at the time of delivery. Records must be kept whether liability to tax as a manufacturer of or dealer in exempt preparations is incurred or not (see art. 140). This record must show the name, address, and registry number of the dealer to whom the preparation or remedy is sold, exchanged, or given, the name and quantity of the preparation or remedy, and the date upon which delivery to the purchaser or his agent or the carrier is made. A separate record must also be kept of sales, etc., to persons other than dealers, including sales pursuant to prescription, bearing the name of the person to whom the preparation or remedy is sold, exchanged, or given, made at the time of delivery, his address, the name and quantity of the preparation or remedy, and the date of delivery. The Government does not furnish blanks for the keeping of these records. . . . . .

ARTICLE 149

As amended by Treasury Decision 3038, of June 22, 1920.

Compromise— Section 3229, Revised Statutes provides in part: "The Commissioner of Internal Revenue, with the advice and consent of the Secretary of the Treasury, may compromise any civil or criminal case arising under the internal revenue laws instead of commencing suit thereon; and, with the advice and consent of the said Secretary and the recommendation of the Attorney General, he may compromise any such case after a suit thereon has been commenced."

It is the policy of this Bureau not to permit persons charged with wilful violation of the provisions of the Act of December 17, 1914, to compromise their offenses. (See art. 153).

ARTICLE 154

As amended by Treasury Decision 3643 of Oct. 27, 1924.
As amended by Treasury Decision 3750 of September 1, 1925.

. . . . . .

Disposition of Excess, Undesirable, or Useless Narcotic Stock by Taxpayers— Excess, undesirable, or useless narcotic stock in the possession of a registered person may be destroyed by such person in the presence of a narcotic agent or inspector to be se-

cured upon request from the narcotic agent in charge of the division in which the premises of the registrant are located. . . . . If the taxpayer is not registered in class 1 or 2, or if the drugs to be destroyed are not a part of the stock of either such class, an inventory shall be prepared on Form 713, the original of which shall be forwarded to the Commissioner by the narcotic agent in charge and the duplicate shall be retained on file by the taxpayer for a period of two years. . . . . Excess or undesirable narcotic drugs and preparations, if not useless, may be disposed of by the taxpayer to a duly qualified purchaser or other recipient provided specific approval of such disposition is secured from the collector for the district in which the recipient is located; narcotic drugs or preparations to be disposed of on account of discontinuance of business may be sold in the same manner. Narcotic drugs and preparations subject to destruction or seizure as hereinbefore provided may otherwise be disposed of only by shipment, charges prepaid, to the narcotic agent in charge of the division in which the taxpayer is located, inventory of the shipment to be prepared as in the case of drugs destroyed except that a copy of the inventory must accompany each shipment. . . . . The shipper shall notify the narcotic agent in charge by mail (shipment of the drugs must not be made by mail) advising of the size and description of the container in which the drugs are being forwarded. . . . . .

PRO-MIMEOGRAPH NO. 316

1. Pro-Mimeograph, Pro. No. 217, dated October 19, 1921, is hereby revoked, and the following outline of procedure to be followed in prescribing and dispensing narcotic drugs is issued for the guidance of narcotic agents in charge, and others concerned. This pamphlet is intended to be advisory only and to anticipate and answer questions arising in the minds of practitioners in regard to the law and regulations governing the prescribing and dispensing of narcotic drugs as interpreted by the courts.

2. The regulations governing this subject are contained in article 117, Regulations 35, as amended by Treasury Decision 3426, and read as follows:

> "*Purpose of Issue*—A prescription, in order to be effective in legalizing the possession of unstamped narcotic drugs and eliminating the necessity for use of order forms, must be issued for legitimate medical purposes. An order purporting to be a prescription issued to an addict or habitual user of narcotics, not in the course of professional treatment in an attempted cure of the habit, but for the purpose of providing the user with narcotics sufficient to keep him comfortable by maintaining his customary use is not a prescription within the meaning and intent of the act; and the persons filling and receiving drugs under such an order, as well as the person issuing it, will be regarded as guilty of violation of the law. (See T. D. 2809, dated Mar. 20, 1919).
> "*Exceptions*—Exceptions to this rule may be properly recognized (1) in the treatment of incurable disease, such as cancer, advanced tuberculosis, and other diseases well recognized as coming within this class, where the physician directly in charge of a bona fide patient suffering from such disease prescribes for such patient, in the course of his professional practice and strictly for legitimate medical purposes, and in so prescribing, indorses upon the prescription that the drug is dispensed in the treatment of an incurable disease (or if he prefers he may indorse upon the prescription 'Exception (1), article 117'); and (2) where the attending physician prescribes for an aged and infirm addict whose collapse from the withdrawal of the drug would result in death and in which case he indorses upon the prescription that the patient is aged and infirm, giving age, and that the drug is necessary to sustain life (or if he prefers he may indorse upon the prescription 'Exception (2), article 117')."

General

3. It is impossible to state an inflexible rule which will cover all cases, and this outline must, therefore, be general in nature and subject to modification through further interpretation of the law by the courts. The bureau is not charged with the duty of laying down any fixed rule as to the furnishing of drugs or the frequency of the prescriptions in any particular case. This responsibility rests upon the physician in charge of the case. While the primary responsibility rests upon the physician in charge, a corresponding liability also rests upon the druggist who knowingly fills an improper prescription or order whereby an addict is supplied with narcotics merely for the purpose of satisfying his addiction. Caution should be exercised to avoid being imposed upon by unscrupulous persons, and too much credence should not be given to the unsupported statements of the addict himself, because the confirmed addict will go far beyond the truth in an attempt to secure an ample supply of narcotic drugs with which to satisfy his cravings.

4. The good faith of the physician and the bona fides of his treatment in a given case will be established by the facts and circumstances of the case and the consensus of medical opinion with regard thereto, based on the experience of the medical profession in cases of similar nature. Physicians will be charged with violation of the law if through carelessness or lack of sufficient personal attention the patient secures more narcotic drugs than are necessary for medical treatment and devotes part of his supply to satisfy addiction.

Use of Narcotics in the Treatment of Disease Without Reference to the Question of Addiction

5. Without reference to the question of addiction, 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, pneumonia, renal calculi, broken limbs, etc.

Use of Narcotics in the Treatment of Incurable Disease

6. A reputable physician directly in charge of bona fide patients suffering from diseases known to be incurable, such as cancer, advanced tuberculosis, and other diseases well recognized as coming within this class, may in the course of his professional practice, and strictly for legitimate medical purposes, dispense or prescribe narcotic drugs for such diseases, provided the patients are personally attended by the physician

who regulates the dosage, and prescribes no quantity greater than that ordinarily recognized by members of his profession to be sufficient for the proper treatment of the given case. The danger of supplying persons suffering from incurable diseases with a supply of narcotics must be borne in mind, because such persons may use the narcotics wrongfully, either by taking excessive quantities or by disposing of a portion of the drugs in their possession to other addicts or persons not lawfully entitled thereto. The physician should indorse upon the prescription that the drug is dispensed in the treatment of an incurable disease, or if he prefers he may indorse upon the prescription "Exception 1, article 117."

Use of Narcotics in the Treatment of Addiction Only

7. Mere addiction alone is not recognized as an incurable disease. It seems necessary, however, to divide the addicts not suffering from an incurable disease into two classes: (a) Those suffering from senility or the infirmities attendant upon old age, who are confirmed addicts of years standing, and who, in the opinion of a reputable physician in charge, require a minimum amount of narcotics in order to sustain life; and (b) those whose addiction is not complicated by incurable disease or by the infirmities attendant upon old age.

(a) *Aged and Infirm Addict*—Addicts suffering from senility or the infirmities attendant upon old age and who are confirmed addicts of years standing may be, for the purpose of enforcing the law, treated as addicts suffering from incurable diseases. In such cases, where narcotic drugs are necessary in order to sustain life, a reputable physician may prescribe or dispense the minimum amount necessary to meet the absolute needs of the patient. In this class of cases the physician issuing the prescription should make a statement on the prescription to the effect that the patient is aged and infirm, giving age, and certifying that the drug is necessary to sustain life, or, if he prefers, he may indorse upon the prescription "Exception 2, article 117."

(b) *The Ordinary Addict*—It is well established that the ordinary case of addiction yields to proper treatment, and that addicts will remain permanently cured when drug taking is stopped and they are otherwise physically restored to health and strengthened in will power. This bureau has never sanctioned or approved the so-called reductive ambulatory treatment of addiction, however, for the reason that where the addict controls the dosage he will not be benefited or cured. Medical authorities agree that the treatment of addiction, with

a view to effecting a cure, which makes no provision for confinement while the drug is being withdrawn, is a failure, except in a relatively small number of cases where the addict is possessed of a much greater degree of will power than that of the ordinary addict.

8. Special advice to cover cases not falling within these instructions will, upon request, be furnished by this office.

THE NARCOTIC DRUGS IMPORT AND EXPORT ACT SECTION 2 (c)

That if any person fraudulently or knowingly imports or brings any narcotic drug into the United States or any territory under its control or jurisdiction, contrary to law, or assists in so doing, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of any such narcotic drug after being imported or brought in, knowing the same to have been imported contrary to law, such person shall upon conviction be fined not more than $5,000 and imprisoned for not more than ten years.

FLETCHER FORD COMPANY, LOS ANGELES