

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 851

Session of  
1971

INTRODUCED BY MR. BERKES, MRS. CRAWFORD, MRS. ANDERSON, MESSRS. GREENFIELD, SCANLON, MILLER, SAVITT, J. H. HAMILTON, GALLAGHER, BRAIG, KNEPPER, R. W. WILT, MELTON, FEE, MRS. KELLY, MESSRS. BELLOMINI, DeMEDIO, HASKELL, DOMBROWSKI, BLAIR, RITTER, D. S. HAYES, O'PAKE, PIEVSKY, FINEMAN, ENGLEHART, IRVIS, MRS. FAWCETT, MESSRS. TAYLOR, O'BRIEN, KURY, WANSACZ, MALADY, COMER, DAGER, H. S. PARKER, STONE, B. L. PARKER, PEZAK, SHERMAN, BARBER, J. J. JOHNSON, DOYLE, KELLY, E. B. DAVIS, FRANK, LUTTY, HUTCHINSON, ARTHURS, CROWLEY, RAPPAPORT, RIEGER, KOWALYSHYN, MRS. TOLL, MESSRS. BERSON, WOJDAK, SCHMITT, ZELLER, MEHOLCHICK, MANDERINO, HOVIS, EARLY, McMONAGLE, BENNETT, KLEPPER, DREIBELBIS, PERRY, MORRIS, YAHNER, KLUNK, GLEASON, STEMMLER, NEEDHAM, D. M. DAVIS, MEBUS, F. M. ALLEN, ZORD, HALVERSON, WRIGHT, PIPER, WISE, HETRICK, PRENDERGAST, GELFAND, LAUDADIO, BONETTO, SHELHAMER, KOLTER, R. O. DAVIS, HOPKINS, WEIDNER, LETTERMAN, SCIRICA, MARTINO, LEDERER, COPPOLINO, SULLIVAN, GEISLER, CAPUTO, WILLIAMS, SHUPNIK, COYNE, M. M. MULLEN, MRS. GILLETTE, MESSRS. VANN, RUSH, FRANCIS LYNCH, ECKENSBERGER, SCHEAFFER, USTYNOSKI, YOHN, LEHR, GALLEN, BURKARDT, O'CONNELL, WELLS, O'DONNELL, WARGO, CESSAR, NOVAK, McCLATCHY AND FRYER, MAY 3, 1971

SENATOR COPPERSMITH, PUBLIC HEALTH AND WELFARE, IN SENATE,  
AS AMENDED, FEBRUARY 1, 1972

AN ACT

1 Relating to the manufacture, sale and possession of CONTROLLED <—  
2 SUBSTANCES, OTHER drugs, devices and cosmetics; conferring  
3 powers on the courts and the secretary and Department of  
4 Health and a newly created Pennsylvania Drug, Device and  
5 Cosmetic Board; establishing schedules of controlled ~~drugs~~ <—  
6 ~~and dangerous~~ substances; providing penalties; requiring  
7 registration of persons engaged in the drug trade and for the  
8 revocation or suspension of certain licenses and  
9 registrations; and repealing an act.

10 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. Short Title.--This act shall be known and may be  
3 cited as "The CONTROLLED SUBSTANCE, Drug, Device and Cosmetic <—  
4 Act." of 1971." <—

5 Section 2. Definitions.--As used in this act:

6 ~~(1) "Drug" means (i) substances recognized in the official <—  
7 United States Pharmacopoeia, official Homeopathic Pharmacopoeia  
8 of the United States, or official National Formulary, or any  
9 supplement to any of them; and (ii) substances intended for use  
10 in the diagnosis, cure, mitigation, treatment or prevention of  
11 disease in man or other animals; and (iii) substances (other  
12 than food) intended to affect the structure or any function of  
13 the body of man or other animals; and (iv) substances intended  
14 for use as a component of any substance specified in clause (i),  
15 (ii) or (iii), but not including devices or their components,  
16 parts or accessories: Provided, That the drug provisions of this  
17 act shall not apply to medicated feed intended for and used  
18 exclusively as food for animals other than man: And provided  
19 further, That the drug provisions as provided in this act shall  
20 not apply to such vitamins, minerals and chemicals when used in  
21 the processing and manufacture of foods and non-alcoholic  
22 beverages specifically permitted under existing State and  
23 Federal statutes as food and color additives. The term shall  
24 include substances controlled by the secretary under the  
25 provisions of sections 3 and 4 of this act.~~

26 ~~(2) "Device" means instruments, apparatus and contrivances,  
27 including their components, parts and accessories, intended (i)  
28 for use in the diagnosis, cure, mitigation, treatment or  
29 prevention of disease of man or other animals; or (ii) to affect  
30 the structure or any function of the body of man or other~~

1 animals.

2 ~~(3) "Cosmetic" means (i) substances intended to be rubbed,~~  
3 ~~poured, sprinkled or sprayed on, introduced into or otherwise~~  
4 ~~applied to the human body or any part thereof for cleansing,~~  
5 ~~beautifying, promoting attractiveness or altering the~~  
6 ~~appearance, and (ii) substances intended for use as a component~~  
7 ~~of any such substances, except that such term shall not include~~  
8 ~~soap.~~

9 ~~(4) "Addict" means any individual who habitually uses any~~  
10 ~~narcotic drug so as to endanger the public morals, health,~~  
11 ~~safety or welfare, or who is so far addicted to the use of~~  
12 ~~narcotic drugs as to have lost the power of self control with~~  
13 ~~reference to his addiction.~~

14 ~~(5) "Administer" means to transfer or deliver a controlled~~  
15 ~~drug or controlled dangerous substance by a practitioner or his~~  
16 ~~authorized agent, in his presence, to an ultimate user or human~~  
17 ~~research subject by injection, or for inhalation or ingestion,~~  
18 ~~or by any other means involving the actual use of the drug.~~

19 ~~(6) "Advertisement" means any representation, disseminated~~  
20 ~~in any manner or by any means other than by labeling, for the~~  
21 ~~purpose of inducing or which is likely to induce, directly or~~  
22 ~~indirectly, the purchase and/or use of a drug, device or~~  
23 ~~cosmetic.~~

24 ~~(7) "Board" means the Pennsylvania Drug, Device and Cosmetic~~  
25 ~~Board.~~

26 ~~(8) "Color additive" means a material which is a dye,~~  
27 ~~pigment or other substance made by a process of synthesis or~~  
28 ~~similar artifice, or extracted, isolated or otherwise derived,~~  
29 ~~with or without intermediate or final change of identity, from a~~  
30 ~~vegetable, animal, mineral or other source, and, when added or~~

~~applied to a drug or cosmetic or to the human body, is capable, alone or through reaction with another substance, of imparting color thereto, except that such term does not include any material which the appropriate authority, pursuant to the Federal act, determines is used or intended to be used solely for a purpose or purposes other than coloring. The term "color" includes black, white and intermediate grays.~~

~~(9) "Council" means the Governor's Council on Drug, Narcotics and Alcohol Abuse.~~

~~(10) "Contaminated with filth" means consisting, in whole or in part, of any decomposed, putrid or filthy substance, or prepared, packed or held under any unsanitary condition or exposed whereby the article or product concerned may have become contaminated with filth, dirt, dust or any foreign material, or in any manner rendered injurious to health.~~

~~(11) "Contraband" means any controlled drug or controlled dangerous substance possessed by a person not authorized by law to possess such drug or substance, or obtained or held in a manner contrary to the provisions of this act.~~

~~(12) "Control" means to add, remove, or change the placement of a drug, substance, or immediate precursor under the provisions of sections 3 and 4 of this act.~~

~~(13) "Controlled dangerous substance" means a drug, substance or immediate precursor in the schedules set forth in section 4.~~

~~(14) "Controlled drug" includes:~~

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

1 ~~synthesis: (A) opium and coca leaves, (B) any opiate having an~~  
2 ~~addiction forming or addiction sustaining capacity similar to~~  
3 ~~morphine, (C) any compound, manufacture, salt, derivative, or~~  
4 ~~preparation of opium or coca leaves or any opiate, and (D) any~~  
5 ~~substance, and any compound, manufacture, salt, derivative, or~~  
6 ~~preparation thereof, which is chemically identical with any of~~  
7 ~~the substances referred to in (A), (B), or (C); except that it~~  
8 ~~shall not include decocainized coca leaves, or extracts of coca~~  
9 ~~leaves which do not contain cocaine or ecgonine;~~

10 ~~(ii) "Depressant or stimulant drug" means: (A) a drug which~~  
11 ~~contains any quantity of barbituric acid or any of the salts of~~  
12 ~~barbituric acid; or any derivative of barbituric acid which has~~  
13 ~~been designated by the United States Secretary of Health,~~  
14 ~~Education, and Welfare as habit forming under subsection (d) of~~  
15 ~~section 502 of the "Federal Food, Drug, and Cosmetic Act" (52~~  
16 ~~Stat. 1050; 21 U.S.C. 352 (d)); (B) a drug which contains any~~  
17 ~~quantity of amphetamine or any of its optical isomers; or any~~  
18 ~~salt of amphetamine or any salt of any optical isomer of~~  
19 ~~amphetamine; or any substance which the secretary, after~~  
20 ~~investigation, has found to be, and by regulation designated as,~~  
21 ~~habit forming because of its stimulant effect on the central~~  
22 ~~nervous system; or (C) lysergic acid diethylamide or any other~~  
23 ~~drug which contains any quantity of a substance which the~~  
24 ~~secretary, after investigation, has found to have, and by~~  
25 ~~regulation designates as having, a potential for abuse because~~  
26 ~~of its depressant or stimulant effect on the central nervous~~  
27 ~~system or its hallucinogenic effect; but the term "controlled~~  
28 ~~drug" shall not include any drug specifically exempted by a~~  
29 ~~regulation promulgated by the secretary as not dangerous to the~~  
30 ~~public health and welfare. Except as otherwise provided herein,~~

~~the term shall include dangerous substances controlled by the  
secretary under sections 3 and 4 of this act.~~

~~(15) "Controlled paraphernalia" includes:~~

~~(i) a hypodermic syringe, needle or other instrument or  
implement or combination thereof adapted for the administration  
of controlled dangerous substances by intravenous injections or  
otherwise under circumstances, including but not limited to, the  
close proximity to other controlled paraphernalia, which  
reasonably indicate an intention to use or possess such  
controlled paraphernalia for purposes of unlawfully  
administering any controlled dangerous substance;~~

~~(ii) diluents, dilutants or adulterants, including but not  
limited to, any of the following: quinine hydrochloride,  
mannitol, mannite, lactose or dextrose, adapted for the dilution  
of controlled dangerous substances under circumstances,  
including, but not limited to, the close proximity to other  
controlled paraphernalia, which reasonably indicate an intention  
to use or possess such controlled paraphernalia for purposes of  
unlawfully diluting or processing any controlled dangerous  
substance; and~~

~~(iii) gelatin capsules, glassine envelopes or any other  
material suitable for the packaging of individual quantities of  
controlled dangerous substances under circumstances, including  
but not limited to, the close proximity to other controlled  
paraphernalia, which reasonably indicate an intention to use or  
possess any such item for the unlawful manufacture, distribution  
or dispensing of any such controlled dangerous substance.~~

~~(16) "Counterfeit drug" means a controlled drug or  
controlled dangerous substance which, or the container or  
labeling of which, without authorization, bears the trademark,~~

1 ~~trade name, or other identifying mark, imprint, number, or~~  
2 ~~device, or any likeness thereof, of a manufacturer, distributor,~~  
3 ~~or dispenser other than the person or persons who in fact~~  
4 ~~manufactured, distributed, or dispensed such substance and which~~  
5 ~~thereby falsely purports or is represented to be the product of,~~  
6 ~~or to have been distributed by, such other manufacturer,~~  
7 ~~distributor, or dispenser.~~

8 ~~(17) "Dispense" means to transfer or deliver a drug or~~  
9 ~~controlled dangerous substance to an ultimate user or human~~  
10 ~~research subject by, or pursuant to the lawful order of, a~~  
11 ~~practitioner.~~

12 ~~(18) The term "immediate container" does not include package~~  
13 ~~liners.~~

14 ~~(19) "Immediate precursor" means a substance which the board~~  
15 ~~has found to be and by regulation designates as being the~~  
16 ~~principal compound commonly used or produced primarily for use,~~  
17 ~~and which is an immediate chemical intermediary used or likely~~  
18 ~~to be used in the manufacture of a controlled dangerous~~  
19 ~~substance, the control of which is necessary to prevent,~~  
20 ~~curtail, or limit such manufacture.~~

21 ~~(20) "Label" means a display of written, printed or graphic~~  
22 ~~matter upon the immediate container of any article, and a~~  
23 ~~requirement made by or under authority of this act that any~~  
24 ~~word, statement or other information appearing on the label~~  
25 ~~shall not be considered to be complied with unless such word~~  
26 ~~statement or other information also appears on the outside~~  
27 ~~container or wrapper, if any there be, of the retail package of~~  
28 ~~such article or is easily legible through the outside container~~  
29 ~~or wrapper.~~

30 ~~(21) "Labeling" means all labels and other written, printed,~~

~~or graphic matter (i) upon an article or any of its containers or wrappers, or (ii) accompanying such article.~~

~~(22) "Manufacture" means the production, preparation, propagation, compounding, or processing of a drug or controlled dangerous substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis. "Manufacturer" also includes any person who packages, repackages, or labels any container of any drug or controlled dangerous substance, except practitioners who dispense or compound prescription order for delivery to the ultimate consumer.~~

~~(23) "Marihuana" means all parts of the plant Cannabis, sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seeds of such plant which is incapable of germination; and~~

~~(24) "New drug" means (i) any drug the composition of which is such that such drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs as safe and effective for use under the conditions prescribed, recommended or suggested in the labeling thereof; or (ii) any drug the composition of which is such that such drug, as a result of investigations to determine~~



~~its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.~~

~~(25) "Nonproprietary drug" means any drug containing any quantity of any narcotic drug, or controlled dangerous drug or a drug containing biologicals or substances of glandular origin (except intestinal enzymes and all liver products), drugs which are administered hypodermically, intramuscularly or intravenously, but not any such drugs which are prepackaged with complete dosage instructions in the labeling limiting their use to the care or treatment of poultry and livestock.~~

~~(26) "Official compendium" means the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary or any supplement to any of them.~~

~~(27) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability.~~

~~(28) "Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof.~~

~~(29) "Person" means any individual, partnership, corporation, association, trust, or other institution or entity.~~

~~(30) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.~~

~~(31) "Possess" means to exercise dominion or control over a drug or controlled dangerous substance.~~

~~(32) "Practitioner" means a physician, including an intern and resident, dentist, veterinarian, scientific investigator,~~

1 ~~pharmacist, pharmacy, hospital, clinic, or other person~~  
2 ~~licensed, registered, or otherwise authorized or allowed by the~~  
3 ~~Commonwealth of Pennsylvania to distribute, dispense, conduct~~  
4 ~~research with respect to or administer a drug or controlled~~  
5 ~~dangerous substance in the course of professional practice or~~  
6 ~~research.~~

7 ~~(33) "Production" includes the manufacture, planting,~~  
8 ~~cultivation, growing, or harvesting of a controlled dangerous~~  
9 ~~substance.~~

10 ~~(34) "Registrant" means any person registered under the laws~~  
11 ~~of this Commonwealth to manufacture, dispense, administer or~~  
12 ~~sell drugs.~~

13 ~~(35) "Secretary" means the Secretary of Health of the~~  
14 ~~Commonwealth of Pennsylvania.~~

15 ~~(36) "Ultimate user" means any person who possesses a drug~~  
16 ~~or controlled dangerous substance for his own use or for the use~~  
17 ~~of a member of his household or for administration to an animal~~  
18 ~~owned by him or by a member of his household.~~

19 ~~(37) "Wholesaler" means any person engaged in the activities~~  
20 ~~of jobber, dealer, repackager or wholesaler, selling,~~  
21 ~~repackaging or otherwise distributing any drug or controlled~~  
22 ~~dangerous substance for resale or redistribution which he has~~  
23 ~~not himself prepared, produced or compounded.~~

24 "ADMINISTER" MEANS THE DIRECT APPLICATION OF A CONTROLLED  
25 SUBSTANCE, OTHER DRUG OR DEVICE, WHETHER BY INJECTION,  
26 INHALATION, INGESTION, OR ANY OTHER MEANS, TO THE BODY OF A  
27 PATIENT OR RESEARCH SUBJECT.

28 "ADVERTISEMENT" MEANS ANY REPRESENTATION, DISSEMINATED IN ANY  
29 MANNER OR BY ANY MEANS OTHER THAN BY LABELING, FOR THE PURPOSE  
30 OF INDUCING OR WHICH IS LIKELY TO INDUCE, DIRECTLY OR

1 INDIRECTLY, THE PURCHASE AND/OR USE OF A CONTROLLED SUBSTANCE,  
2 OTHER DRUG, DEVICE OR COSMETIC.

3 "AGENT" MEANS AN AUTHORIZED PERSON WHEN ACTING ON BEHALF OF  
4 OR AT THE DIRECTION OF A MANUFACTURER, DISTRIBUTOR, OR  
5 DISPENSER. IT DOES NOT INCLUDE A COMMON OR CONTRACT CARRIER,  
6 PUBLIC WAREHOUSEMAN, OR EMPLOYEE OF THE CARRIER OR WAREHOUSEMAN.

7 "BOARD" MEANS THE PENNSYLVANIA DRUG, DEVICE AND COSMETIC  
8 BOARD.

9 "BUREAU" MEANS THE BUREAU OF DRUG CONTROL, PENNSYLVANIA  
10 DEPARTMENT OF HEALTH.

11 "COLOR ADDITIVE" MEANS A MATERIAL WHICH IS A DYE, PIGMENT OR  
12 OTHER SUBSTANCE MADE BY A PROCESS OF SYNTHESIS OR SIMILAR  
13 ARTIFICE, OR EXTRACTED, ISOLATED OR OTHERWISE DERIVED, WITH OR  
14 WITHOUT INTERMEDIATE OR FINAL CHANGE OF IDENTITY, FROM A  
15 VEGETABLE, ANIMAL, MINERAL OR OTHER SOURCE, AND, WHEN ADDED OR  
16 APPLIED TO A CONTROLLED SUBSTANCE, OTHER DRUG, DEVICE OR  
17 COSMETIC TO THE HUMAN OR ANIMAL BODY, IS CAPABLE, ALONE OR  
18 THROUGH REACTION WITH ANOTHER SUBSTANCE, OF IMPARTING COLOR  
19 THERETO, EXCEPT THAT SUCH TERM DOES NOT INCLUDE ANY MATERIAL  
20 WHICH THE APPROPRIATE AUTHORITY, PURSUANT TO THE FEDERAL ACT,  
21 DETERMINES IS USED OR INTENDED TO BE USED SOLELY FOR A PURPOSE  
22 OR PURPOSES OTHER THAN COLORING. THE TERM "COLOR" INCLUDES  
23 BLACK, WHITE AND INTERMEDIATE GRAYS.

24 "COMMERCIAL CONTAINER" MEANS ANY BOTTLE, JAR, TUBE, AMPUL, OR  
25 OTHER RECEPTACLE IN WHICH A CONTROLLED SUBSTANCE, OTHER DRUG,  
26 DEVICE OR COSMETIC IS HELD FOR DISTRIBUTION OR DISPENSING TO AN  
27 ULTIMATE USER, AND IN ADDITION, ANY BOX OR PACKAGE IN WHICH THE  
28 RECEPTACLE IS HELD FOR DISTRIBUTION OR DISPENSING TO AN ULTIMATE  
29 USER. THE TERM "COMMERCIAL CONTAINER" DOES NOT INCLUDE ANY  
30 PACKAGE LINER, PACKAGE INSERT OR OTHER MATERIAL KEPT WITH OR

1 WITHIN A COMMERCIAL CONTAINER, NOR ANY CARTON, CRATE, DRUG, OR  
2 OTHER PACKAGE IN WHICH COMMERCIAL CONTAINERS ARE STORED OR ARE  
3 USED FOR SHIPMENT OF CONTROLLED SUBSTANCES.

4 "CONTAMINATED WITH FILTH" MEANS CONSISTING, IN WHOLE OR IN  
5 PART, OF ANY DECOMPOSED, PUTRID OR FILTHY SUBSTANCE, OR  
6 PREPARED, PACKED OR HELD UNDER ANY UNSANITARY CONDITION OR  
7 EXPOSED WHEREBY THE ARTICLE OR PRODUCT CONCERNED MAY HAVE BECOME  
8 CONTAMINATED WITH FILTH, DIRT, DUST OR ANY FOREIGN MATERIAL, OR  
9 IN ANY MANNER RENDERED INJURIOUS TO HEALTH.

10 "CONTRABAND" MEANS ANY CONTROLLED SUBSTANCE, OTHER DRUG,  
11 DEVICE OR COSMETIC POSSESSED BY A PERSON NOT AUTHORIZED BY LAW  
12 TO POSSESS SUCH CONTROLLED SUBSTANCE, OTHER DRUG, DEVICE OR  
13 COSMETIC, OR OBTAINED OR HELD IN A MANNER CONTRARY TO THE  
14 PROVISIONS OF THIS ACT.

15 "CONTROL" MEANS TO REMOVE, OR CHANGE THE PLACEMENT OF A  
16 CONTROLLED SUBSTANCE, OR IMMEDIATE PRECURSOR UNDER THE  
17 PROVISIONS OF THIS ACT.

18 "CONTROLLED SUBSTANCE" MEANS A DRUG, SUBSTANCE, OR IMMEDIATE  
19 PRECURSOR INCLUDED IN SCHEDULES I THROUGH V OF THIS ACT.

20 "COSMETIC" MEANS: (I) SUBSTANCES INTENDED TO BE RUBBED,  
21 POURED, SPRINKLED OR SPRAYED ON, INTRODUCED INTO OR OTHERWISE  
22 APPLIED TO THE HUMAN BODY OR OTHER ANIMAL BODY OR ANY PART  
23 THEREOF FOR CLEANSING, BEAUTIFYING, PROMOTING ATTRACTIVENESS OR  
24 ALTERING THE APPEARANCE, AND (II) SUBSTANCES INTENDED FOR USE AS  
25 A COMPONENT OF ANY SUCH SUBSTANCES, EXCEPT THAT SUCH TERM SHALL  
26 NOT INCLUDE SOAP.

27 "COUNCIL" MEANS THE GOVERNOR'S DRUG AND ALCOHOL ABUSE  
28 COUNCIL.

29 "COUNTERFEIT" MEANS A CONTROLLED SUBSTANCE, OTHER DRUG,  
30 DEVICE OR COSMETIC WHICH, OR THE CONTAINER OR LABELING OF WHICH,

1 WITHOUT AUTHORIZATION, BEARS THE TRADEMARK, TRADE NAME, OR OTHER  
2 IDENTIFYING MARK, IMPRINT, NUMBER, OR DEVICE, OR ANY LIKENESS  
3 THEREOF, OF A MANUFACTURER, DISTRIBUTOR, OR DISPENSER OTHER THAN  
4 THE PERSON OR PERSONS WHO IN FACT MANUFACTURED, DISTRIBUTED, OR  
5 DISPENSED SUCH SUBSTANCE AND WHICH THEREBY IS FALSELY PURPORTED  
6 OR REPRESENTED TO BE THE PRODUCT OF, OR TO HAVE BEEN DISTRIBUTED  
7 BY, SUCH OTHER MANUFACTURER, DISTRIBUTOR, OR DISPENSER.

8 "COURT" MEANS ALL COURTS OF THE COMMONWEALTH OF PENNSYLVANIA,  
9 INCLUDING MAGISTRATES AND JUSTICES OF THE PEACE.

10 "DELIVER" OR "DELIVERY" MEANS THE ACTUAL, CONSTRUCTIVE, OR  
11 ATTEMPTED TRANSFER FROM ONE PERSON TO ANOTHER OF A CONTROLLED  
12 SUBSTANCE, OTHER DRUG, DEVICE OR COSMETIC WHETHER OR NOT THERE  
13 IS AN AGENCY RELATIONSHIP.

14 "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH OF THE  
15 COMMONWEALTH OF PENNSYLVANIA.

16 "DEVICE" MEANS INSTRUMENTS, APPARATUS AND CONTRIVANCES,  
17 INCLUDING THEIR COMPONENTS, PARTS AND ACCESSORIES, INTENDED: (I)  
18 FOR USE IN THE DIAGNOSIS, CURE, MITIGATION, TREATMENT OR  
19 PREVENTION OF DISEASE OF MAN OR OTHER ANIMALS; OR (II) TO AFFECT  
20 THE STRUCTURE OR ANY FUNCTION OF THE BODY OF MAN OR OTHER  
21 ANIMALS.

22 "DISPENSE" MEANS TO DELIVER A CONTROLLED SUBSTANCE, OTHER  
23 DRUG OR DEVICE TO AN ULTIMATE USER OR RESEARCH SUBJECT BY OR  
24 PURSUANT TO THE LAWFUL ORDER OF A PRACTITIONER, INCLUDING THE  
25 PRESCRIBING, ADMINISTERING, PACKAGING, LABELING, OR COMPOUNDING  
26 NECESSARY TO PREPARE SUCH ITEM FOR THAT DELIVERY.

27 "DISPENSER" MEANS A PRACTITIONER WHO DISPENSES.

28 "DISTRIBUTE" MEANS TO DELIVER OTHER THAN BY ADMINISTERING OR  
29 DISPENSING A CONTROLLED SUBSTANCE, OTHER DRUG, DEVICE OR  
30 COSMETIC.

1 "DISTRIBUTOR" MEANS ANY PERSON ENGAGED IN THE ACTIVITIES OF  
2 JOBBER, DEALER, OR WHOLESALE WHO SELLS, OR OTHERWISE  
3 DISTRIBUTES, ANY CONTROLLED SUBSTANCE, OTHER DRUG, DEVICE OR  
4 COSMETIC FOR RESALE OR REDISTRIBUTION WHICH HE HAS NOT HIMSELF  
5 PREPARED, PRODUCED OR COMPOUNDED.

6 "DRUG" MEANS: (I) SUBSTANCES RECOGNIZED IN THE OFFICIAL  
7 UNITED STATES PHARMACOPEIA, OR OFFICIAL NATIONAL FORMULARY, OR  
8 ANY SUPPLEMENT TO EITHER OF THEM; AND (II) SUBSTANCES INTENDED  
9 FOR USE IN THE DIAGNOSIS, CURE, MITIGATION, TREATMENT OR  
10 PREVENTION OF DISEASE IN MAN OR OTHER ANIMALS; AND (III)  
11 SUBSTANCES (OTHER THAN FOOD) INTENDED TO AFFECT THE STRUCTURE OR  
12 ANY FUNCTION OF THE HUMAN BODY OR OTHER ANIMAL BODY; AND (IV)  
13 SUBSTANCES INTENDED FOR USE AS A COMPONENT OF ANY ARTICLE  
14 SPECIFIED IN CLAUSE (I), (II) OR (III), BUT NOT INCLUDING  
15 DEVICES OR THEIR COMPONENTS, PARTS OR ACCESSORIES.

16 "DRUG DEPENDENT PERSON" MEANS A PERSON WHO IS USING A DRUG,  
17 CONTROLLED SUBSTANCE OR ALCOHOL, AND WHO IS IN A STATE OF  
18 PSYCHIC OR PHYSICAL DEPENDENCE, OR BOTH, ARISING FROM  
19 ADMINISTRATION OF THAT DRUG, CONTROLLED SUBSTANCE OR ALCOHOL ON  
20 A CONTINUING BASIS. SUCH DEPENDENCE IS CHARACTERIZED BY  
21 BEHAVIORAL AND OTHER RESPONSES WHICH INCLUDE A STRONG COMPULSION  
22 TO TAKE THE DRUG, CONTROLLED SUBSTANCE OR ALCOHOL ON A  
23 CONTINUOUS BASIS IN ORDER TO EXPERIENCE ITS PSYCHIC EFFECTS, OR  
24 TO AVOID THE DISCOMFORT OF ITS ABSENCE.

25 "IMMEDIATE PRECURSOR" MEANS A SUBSTANCE WHICH THE SECRETARY  
26 HAS FOUND TO BE AND BY REGULATION DESIGNATES AS BEING A  
27 PRINCIPAL COMPOUND COMMONLY USED OR PRODUCED PRIMARILY FOR USE,  
28 AND WHICH IS AN IMMEDIATE CHEMICAL INTERMEDIARY USED OR LIKELY  
29 TO BE USED IN THE MANUFACTURE OF A CONTROLLED SUBSTANCE.

30 "LABEL" MEANS A DISPLAY OF WRITTEN, PRINTED OR GRAPHIC MATTER

1 UPON THE COMMERCIAL CONTAINER OF ANY SUBSTANCE OR ARTICLE AND A  
2 REQUIREMENT MADE BY OR UNDER AUTHORITY OF THIS ACT THAT ANY  
3 WORD, STATEMENT OR OTHER INFORMATION APPEARING ON THE LABEL  
4 SHALL NOT BE CONSIDERED TO BE COMPLIED WITH UNLESS SUCH WORD,  
5 STATEMENT OR OTHER INFORMATION ALSO APPEARS ON THE OUTSIDE  
6 CONTAINER OR WRAPPER, IF ANY THERE BE, OF THE RETAIL PACKAGE OF  
7 SUCH SUBSTANCE OR IS EASILY LEGIBLE THROUGH THE OUTSIDE  
8 CONTAINER OR WRAPPER.

9 "LABELING" MEANS ALL LABELS AND OTHER WRITTEN, PRINTED, OR  
10 GRAPHIC MATTER: (I) UPON A SUBSTANCE OR ANY OF ITS CONTAINERS OR  
11 WRAPPERS; OR (II) ACCOMPANYING SUCH SUBSTANCE.

12 "MANUFACTURE" MEANS THE PRODUCTION, PREPARATION, PROPAGATION,  
13 COMPOUNDING, CONVERSION OR PROCESSING OF A CONTROLLED SUBSTANCE,  
14 OTHER DRUG OR DEVICE OR THE PACKAGING OR REPACKAGING OF SUCH  
15 SUBSTANCE OR ARTICLE, OR THE LABELING OR RELABELING OF THE  
16 COMMERCIAL CONTAINER OF SUCH SUBSTANCE OR ARTICLE, BUT DOES NOT  
17 INCLUDE THE ACTIVITIES OF A PRACTITIONER WHO, AS AN INCIDENT TO  
18 HIS ADMINISTRATION OR DISPENSING SUCH SUBSTANCE OR ARTICLE IN  
19 THE COURSE OF HIS PROFESSIONAL PRACTICE, PREPARES, COMPOUNDS,  
20 PACKAGES OR LABELS SUCH SUBSTANCE OR ARTICLE. THE TERM

21 "MANUFACTURER" MEANS A PERSON WHO MANUFACTURES A CONTROLLED  
22 SUBSTANCE, OTHER DRUG OR DEVICE.

23 "MARIHUANA" MEANS ALL PARTS OF THE PLANT CANNABIS SATIVA L.,  
24 WHETHER GROWING OR NOT; THE SEEDS THEREOF; THE RESIN EXTRACTED  
25 FROM ANY PART OF SUCH PLANT; AND EVERY COMPOUND, MANUFACTURE,  
26 SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF SUCH PLANT, ITS  
27 SEEDS OR RESIN; BUT SHALL NOT INCLUDE TETRAHYDROCANNABOL, THE  
28 MATURE STALKS OF SUCH PLANT, FIBER PRODUCED FROM SUCH STALKS,  
29 OIL OR CAKE MADE FROM THE SEEDS OF SUCH PLANT, ANY OTHER  
30 COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION

1 OF SUCH MATURE STALKS (EXCEPT THE RESIN EXTRACTED THEREFROM),  
2 FIBER, OIL, CAKE, OR THE STERILIZED SEED OF SUCH PLANT WHICH IS  
3 INCAPABLE OF GERMINATION.

4 "NARCOTIC" MEANS ANY OF THE FOLLOWING, WHETHER PRODUCED  
5 DIRECTLY OR INDIRECTLY BY EXTRACTION FROM SUBSTANCES OF  
6 VEGETABLE ORIGIN, OR INDEPENDENTLY BY MEANS OF CHEMICAL  
7 SYNTHESIS OR BY A COMBINATION OF EXTRACTION AND CHEMICAL  
8 SYNTHESIS: (I) OPIUM, (II) ANY OPIATE HAVING AN ADDICTION-  
9 FORMING OR ADDICTION-SUSTAINING CAPACITY SIMILAR TO MORPHINE,  
10 BUT NOT INCLUDING THE ISOQUINOLINE ALKALOIDS OF OPIUM, (III) ANY  
11 COMPOUND, MANUFACTURE, SALT, DERIVATIVE, OR PREPARATION OF OPIUM  
12 OR ANY OPIATE, AND (IV) ANY SUBSTANCE, COMPOUND, MANUFACTURE,  
13 SALT, DERIVATIVE, OR PREPARATION THEREOF, WHICH IS CHEMICALLY  
14 IDENTICAL WITH ANY OF THE SUBSTANCES REFERRED TO IN (I), (II) OR  
15 (III).

16 "NEW DRUG" MEANS (I) ANY DRUG THE COMPOSITION OF WHICH IS  
17 SUCH THAT SUCH DRUG IS NOT GENERALLY RECOGNIZED AMONG EXPERTS  
18 QUALIFIED BY SCIENTIFIC TRAINING AND EXPERIENCE TO EVALUATE THE  
19 SAFETY AND EFFECTIVENESS OF DRUGS AS SAFE AND EFFECTIVE FOR USE  
20 UNDER THE CONDITIONS PRESCRIBED, RECOMMENDED OR SUGGESTED IN THE  
21 LABELING THEREOF; OR (II) ANY DRUG THE COMPOSITION OF WHICH IS  
22 SUCH THAT SUCH DRUG, AS A RESULT OF INVESTIGATIONS TO DETERMINE  
23 ITS SAFETY AND EFFECTIVENESS FOR USE UNDER SUCH CONDITIONS, HAS  
24 BECOME SO RECOGNIZED, BUT WHICH HAS NOT, OTHERWISE THAN IN SUCH  
25 INVESTIGATIONS, BEEN USED TO A MATERIAL EXTENT OR FOR A MATERIAL  
26 TIME UNDER SUCH CONDITIONS.

27 "NONPROPRIETARY DRUG" MEANS ANY DRUG CONTAINING ANY QUANTITY  
28 OF ANY CONTROLLED SUBSTANCE, A DRUG CONTAINING BIOLOGICALS OR  
29 SUBSTANCES OF GLANDULAR ORIGIN (EXCEPT INTESTINAL ENZYMES AND  
30 ALL LIVER PRODUCTS), DRUGS WHICH ARE ADMINISTERED PARENTERALLY,



1 BUT NOT ANY SUCH DRUGS WHICH ARE PREPACKAGED WITH COMPLETE  
2 DOSAGE INSTRUCTIONS IN THE LABELING LIMITING THEIR USE TO THE  
3 CARE OR TREATMENT OF POULTRY AND LIVESTOCK.

4 "OFFICIAL COMPENDIUM" MEANS THE OFFICIAL UNITED STATES  
5 PHARMACOPEIA, THE OFFICIAL NATIONAL FORMULARY OR ANY SUPPLEMENT  
6 TO EITHER OF THEM.

7 "OPIATE" MEANS ANY SUBSTANCE HAVING AN ADDICTION-FORMING OR  
8 ADDICTION-SUSTAINING LIABILITY SIMILAR TO MORPHINE OR BEING  
9 CAPABLE OF CONVERSION INTO A DRUG HAVING ADDICTION-FORMING OR  
10 ADDICTION-SUSTAINING LIABILITY. IT DOES NOT INCLUDE THE  
11 DEXTROROTATORY ISOMER OF 3-METHOXY-N-METHYLMORPHINAN AND ITS  
12 SALTS (DEXTROMETHORPHAN). IT DOES INCLUDE THE RACEMIC AND  
13 LEVOROTATORY FORMS.

14 "OPIUM POPPY" MEANS THE PLANT OF THE SPECIES PAPAVER  
15 SOMNIFERUM L., EXCEPT ITS SEEDS.

16 "PERSON" MEANS INDIVIDUAL, CORPORATION, GOVERNMENT OR  
17 GOVERNMENTAL SUBDIVISION OR AGENCY, BUSINESS TRUST, ESTATE,  
18 TRUST, PARTNERSHIP OR ASSOCIATION, OR ANY OTHER LEGAL ENTITY.

19 "POPPY STRAW" MEANS ALL PARTS, EXCEPT THE SEEDS, OF THE OPIUM  
20 POPPY, AFTER MOWING.

21 "PRACTITIONER" MEANS: (I) A PHYSICIAN, OSTEOPATH, DENTIST,  
22 VETERINARIAN, PHARMACIST, PODIATRIST, NURSE, SCIENTIFIC  
23 INVESTIGATOR, OR OTHER PERSON LICENSED, REGISTERED OR OTHERWISE  
24 PERMITTED TO DISTRIBUTE, DISPENSE, CONDUCT RESEARCH WITH RESPECT  
25 TO OR TO ADMINISTER A CONTROLLED SUBSTANCE, OTHER DRUG OR DEVICE  
26 IN THE COURSE OF PROFESSIONAL PRACTICE OR RESEARCH IN THE  
27 COMMONWEALTH OF PENNSYLVANIA; (II) A PHARMACY, HOSPITAL, CLINIC  
28 OR OTHER INSTITUTION LICENSED, REGISTERED, OR OTHERWISE  
29 PERMITTED TO DISTRIBUTE, DISPENSE, CONDUCT RESEARCH WITH RESPECT  
30 TO OR TO ADMINISTER A CONTROLLED SUBSTANCE, OTHER DRUG OR DEVICE

1 IN THE COURSE OF PROFESSIONAL PRACTICE OR RESEARCH IN THE  
2 COMMONWEALTH OF PENNSYLVANIA.

3 "PRODUCTION" INCLUDES THE MANUFACTURE, PLANTING, CULTIVATION,  
4 GROWING OR HARVESTING OF A CONTROLLED SUBSTANCE, OTHER DRUG,  
5 DEVICE AND COSMETIC.

6 "PRESCRIPTION" OR "PRESCRIPTION ORDER" MEANS AN ORDER FOR A  
7 CONTROLLED SUBSTANCE, OTHER DRUG OR DEVICE FOR MEDICATION WHICH  
8 IS DISPENSED TO OR FOR AN ULTIMATE USER BUT DOES NOT INCLUDE AN  
9 ORDER FOR A CONTROLLED SUBSTANCE, OTHER DRUG OR DEVICE FOR  
10 MEDICATION WHICH IS DISPENSED FOR IMMEDIATE ADMINISTRATION TO  
11 THE ULTIMATE USER. (E.G., AN ORDER TO DISPENSE A DRUG TO A BED  
12 PATIENT FOR IMMEDIATE ADMINISTRATION IN A HOSPITAL IS NOT A  
13 PRESCRIPTION ORDER.)

14 "REGISTRANT" MEANS ANY ONE PERSON REGISTERED UNDER THE LAWS  
15 OF THIS COMMONWEALTH TO MANUFACTURE, DISPENSE, DISTRIBUTE,  
16 ADMINISTER OR SELL DRUGS.

17 "SECRETARY" MEANS THE SECRETARY OF HEALTH OF THE COMMONWEALTH  
18 OF PENNSYLVANIA.

19 "ULTIMATE USER" MEANS A PERSON WHO LAWFULLY POSSESSES A  
20 CONTROLLED SUBSTANCE, OTHER DRUG, DEVICE OR COSMETIC FOR HIS OWN  
21 USE OR FOR THE USE OF A MEMBER OF HIS HOUSEHOLD OR FOR  
22 ADMINISTERING TO AN ANIMAL IN HIS CARE.

23 Section 3. Authority to Control.--(a) The secretary shall  
24 control all substances ~~enumerated in section 4~~ LISTED IN <—  
25 SCHEDULES I THROUGH V of this act and may, by regulation, upon  
26 his own motion or on the petition of any interested party add,  
27 delete, or reschedule a substance as a controlled ~~dangerous~~ <—  
28 substance. Such regulations shall be adopted in accordance with  
29 the act of July 31, 1968 (Act No. 240), known as the  
30 "Commonwealth Documents Law." Before so doing, the secretary

1 shall request the advice in writing from the board whether a  
2 substance should be added, deleted, or rescheduled as a  
3 controlled ~~dangerous~~ substance. Such advice shall be rendered to <—  
4 the secretary within a reasonable time. The secretary shall  
5 consider with respect to each substance hereafter controlled:  
6 (1) Its actual or relative potential for abuse;  
7 (2) Scientific evidence of its pharmacological effect, if  
8 known;  
9 (3) State of current scientific knowledge regarding the  
10 substance;  
11 (4) Its history and current pattern of abuse;  
12 (5) The scope, duration, and significance of abuse;  
13 (6) ~~What, if any,~~ THE risk there is to the public health; <—  
14 (7) Its psychic or physiological dependence liability;  
15 (8) Whether the substance is controlled under Federal law;  
16 and  
17 (9) Whether the substance is an immediate precursor of a  
18 substance already controlled under this section. After  
19 considering the above factors, the secretary shall make findings  
20 with respect thereto and shall issue ~~an order~~ A REGULATION <—  
21 controlling the substance if he finds that the substance has a  
22 potential for abuse.  
23 (b) If the secretary designates a substance as an immediate  
24 precursor, substances which are precursors of the controlled  
25 precursor shall not be subject to control solely because they  
26 are precursors of the controlled precursor.  
27 ~~(c) When, for the purpose of greater protection of the~~ <—  
28 ~~public, at the time a new drug application is submitted to the~~  
29 ~~board for any drug having a stimulant, depressant, or~~  
30 ~~hallucinogenic effect on the central nervous system, it appears~~

1 ~~that such drug has an abuse potential such information shall be~~  
2 ~~submitted to review by the Scientific Advisory Committee of the~~  
3 ~~Board prior to their advising the secretary whether or not to~~  
4 ~~control such drug under this act.~~

5 ~~(d)~~ (C) The secretary shall not remove any Schedule I <—  
6 substance ~~of section 4~~ of this act to Schedules II, III, IV or V <—  
7 of such section, nor shall he delete such substances from the  
8 controls of this act unless specifically authorized by the  
9 ~~General Assembly~~ BOARD to do so. <—

10 Section 4. Schedules of Controlled ~~Dangerous~~ Substances.-- <—  
11 The following schedules include the controlled ~~dangerous~~ <—  
12 substances listed or to be listed by whatever official name,  
13 common or usual name, chemical name, or trade name designated.

14 (1) Schedule I--In determining that a substance comes within  
15 this schedule, the secretary shall find: a high potential for  
16 abuse, no currently accepted medical use in the United States,  
17 and a lack of accepted safety for use under medical supervision.  
18 The following controlled ~~dangerous~~ substances are included in <—  
19 this schedule:

20 (i) Any of the following opiates, including their isomers,  
21 esters, ethers, salts, and salts of isomers, esters, and ethers,  
22 unless specifically excepted, whenever the existence of such  
23 isomers, esters, ethers and salts is possible within the  
24 specific chemical designation:

- 25 1. Acetylmethadol.
- 26 2. Allylprodine.
- 27 3. ~~Alphaeteylmethadol~~. ALPHACETYLMETHADOL. <—
- 28 4. Alphameprodine.
- 29 5. Alphamethadol.
- 30 6. Benzethidine.

1	7.	Betacetylmethadol.	
2	8.	Betameprodine.	
3	9.	Betamethadol.	
4	10.	Betaprodine.	
5	11.	Clonitazene.	
6	12.	Dextromoramide.	
7	13.	Dextrorphan (except its methylether).	
8	14.	Diampromide.	
9	15.	<del>Diethylthiambutene.</del> DIETHYLTHIAMBUTENE.	<—
10	16.	Dimenoxadol.	
11	17.	Dimepheptanol.	
12	18.	<del>Dimethylthiambutene.</del> DIMETHYLTHIAMBUTENE.	<—
13	19.	Dioxaphetyl butyrate.	
14	20.	Dipipanone.	
15	21.	Ethylmethylthiambutene.	
16	22.	Etonitazene.	
17	23.	Etoxeridine.	
18	24.	Furethidine.	
19	25.	Hydroxypethidine.	
20	26.	Ketobemidone.	
21	27.	Levomoramide.	
22	28.	Levophenacylmorphane.	
23	29.	Morpheridine.	
24	30.	Noracymethadol.	
25	31.	Norlevorphanol.	
26	32.	Normethadone.	
27	33.	Norpipanone.	
28	34.	Phenadoxone.	
29	35.	Phenampromide.	
30	36.	Phenomorphan.	

1 37. Phenoperidine.

2 38. Piritramide.

3 39. Proheptazine.

4 40. Properidine.

5 41. Racemoramide.

6 42. Trimeperidine.

7 (ii) Any of the following opium derivatives, their salts,  
8 isomers and salts of isomers, unless specifically excepted,  
9 whenever the existence of such salts, isomers and salts of  
10 isomers is possible within the specific chemical designation:

11 1. Acetorphine.

12 2. Acetyldihydrocodeine.

13 3. Benzylmorphine.

14 4. Codeine ~~Methylbromide.~~ METHYLBROMIDE.

<—

15 5. Codeine-N-Oxide.

16 6. Cyprenorphine.

17 7. Desomorphine.

18 8. Dihydromorphine.

19 9. Etorphine.

20 10. Heroin.

21 11. Hydromorphenol.

22 12. Methyldesorphine.

23 13. Methylhydromorphine.

24 14. Morphine methylbromide.

25 15. Morphine methylsulfonate.

26 16. Morphine-N-Oxide.

27 17. Myrophine.

28 18. Nicocodeine.

29 19. Nicomorphine.

30 20. Normorphine.

1 21. Pholcodine.

2 22. Thebacon.

3 (iii) Any material, compound, mixture, or preparation which  
4 contains any quantity of the following hallucinogenic  
5 substances, their salts, isomers, and salts of isomers, unless  
6 specifically excepted, whenever the existence of such salts,  
7 isomers, and salts of isomers is possible within the specific  
8 chemical designation:

9 1. 3,4-methylenedioxy amphetamine.

10 2. 5-methoxy-3,4-methylenedioxy amphetamine.

11 3. 3,4,5-trimethoxy amphetamine.

12 4. Bufotenine.

13 5. Diethyltryptamine.

14 6. Dimethyltryptamine.

15 7. 4-methyl-2,5-dimethoxyamphetamine.

16 8. Ibogaine.

17 9. Lysergic acid diethylamide.

18 ~~10. Marijuana.~~

<—

19 ~~11.~~ 10. Mescaline.

<—

20 ~~12.~~ 11. Peyote.

<—

21 ~~13.~~ 12. N-ethyl-3-piperidyl benzilate.

<—

22 ~~14.~~ 13. N-methyl-3-piperidyl benzilate.

<—

23 ~~15.~~ 14. Psilocybin.

<—

24 ~~16.~~ 15. Psilocyn.

<—

25 ~~17. Tetrahydrocannabinols.~~ 16. TETRAHYDROCANNABINOLS.

<—

26 (IV) MARIHUANA.

<—

27 (2) Schedule II--In determining that a substance comes  
28 within this schedule, the secretary shall find: a high potential  
29 for abuse, currently accepted medical use in the United States,  
30 or currently accepted medical use with severe restrictions, and

1 abuse may lead to severe psychic or physical dependence. The  
2 following controlled ~~dangerous~~ substances are included in this <—  
3 schedule:

4 (i) Any of the following substances except those ~~narcotic~~ <—  
5 ~~drugs~~ NARCOTICS specifically excepted or listed in other <—  
6 schedules, whether produced directly or indirectly by extraction  
7 from substances of vegetable origin, or independently by means  
8 of chemical synthesis, or by combination of extraction and  
9 chemical synthesis:

10 1. Opium and opiate, and any salt, compound, derivative, or  
11 preparation of opium or opiate.

12 2. Any salt, compound, derivative, or preparation thereof  
13 which is chemically equivalent or identical with any of the  
14 substances referred to in subclause 1, except that these  
15 substances shall not include the isoquinoline alkaloids of  
16 opium.

17 3. Opium poppy and poppy straw.

18 4. Coca leaves and any salt, compound, derivative, or  
19 preparation of coca leaves, and any salt, compound, derivative,  
20 or preparation thereof which is chemically equivalent or  
21 identical with any of these substances, ~~except that the~~ <—  
22 ~~substances~~ BUT shall not include decocainized coca leaves or <—  
23 ~~extraction~~ EXTRACTS of coca leaves, which ~~extractions~~ EXTRACTS <—  
24 do not contain cocaine or ecgonine.

25 (ii) Any of the following opiates, including their isomers,  
26 esters, ethers, salts, and salts of isomers, esters and ethers,  
27 unless specifically excepted, whenever the existence of such  
28 isomers, esters, ethers and salts is possible within the  
29 specific chemical designation:

30 1. Alphaprodine.



1	2. Anileridine.	
2	3. Bezitramide.	
3	4. Dihydrocodeine.	
4	5. Diphenoxylate.	
5	6. Fentanyl.	
6	7. Isomethadone.	
7	8. Levomethorphan.	
8	9. Levorphanol.	
9	10. Metazocine.	
10	11. Methadone.	
11	12. Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-	
12	diphenyl butane.	
13	13. Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-	
14	diphenyl-propane-carboxylic acid.	
15	14. PENTAZOCENE	<—
16	<del>14.</del> 15. Pethidine.	<—
17	<del>15.</del> 16. Pethidine-Intermediate-A, 4-cyano-1-methyl-4-	<—
18	phenylpiperidine.	
19	<del>16.</del> 17. Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-	<—
20	4-carboxylate.	
21	<del>17.</del> 18. Pethidine-Intermediate-C, 1-methyl-4-	<—
22	phenylpiperidine-4-carboxylic acid.	
23	<del>18.</del> 19. Phenazocine.	<—
24	<del>19.</del> 20. Piminodine.	<—
25	<del>20.</del> 21. Racemethorphan.	<—
26	<del>21.</del> 22. Racemorphan.	<—
27	(iii) Unless specifically excepted or unless listed in	
28	another schedule, any <del>injectable liquid</del> MATERIAL, COMPOUND,	<—
29	MIXTURE OR PREPARATION which contains any quantity of	
30	methamphetamine, including its salts, isomers, and salts of	

<—

1 isomers, HAVING A POTENTIAL FOR ABUSE ASSOCIATED WITH THE  
2 STIMULANT EFFECT ON THE CENTRAL NERVOUS SYSTEM:

3 1. AMPHETAMINE, ITS SALTS, OPTICAL ISOMERS, AND SALTS OF ITS  
4 OPTICAL ISOMERS.

5 2. PHENMETRAMINE AND ITS SALTS.

6 3. METHYLPHENIDATE.

7 4. ANY SUBSTANCE WHICH CONTAINS ANY QUANTITY OF  
8 METHAMPHETAMINE INCLUDING ITS SALTS, ISOMERS AND SALTS OF  
9 ISOMERS.

10 (iv) The phrase "opiates" as used in section 4 of this act  
11 and elsewhere throughout the act shall not include the  
12 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its  
13 salts, but does include its racemic and levorotatory forms.

14 (3) Schedule III--In determining that a substance comes  
15 within this schedule, the secretary shall find: a potential for  
16 abuse less than the substances listed in Schedules I and II;  
17 well documented and currently accepted medical use in the United  
18 States; and abuse may lead to moderate or low physical  
19 dependence or high psychological dependence. The following  
20 classes of controlled ~~dangerous~~ substances are included in this <—  
21 schedule:

22 ~~(i) Any material, compound, mixture, or preparation unless~~ <—  
23 ~~specifically excepted or unless listed in another schedule which~~  
24 ~~contains any quantity of the following substances having a~~  
25 ~~potential for abuse associated with a stimulant effect on the~~  
26 ~~central nervous system:~~

27 ~~1. Amphetamine, its salts, optical isomers, and salts of its~~  
28 ~~optical isomers.~~

29 ~~2. Phenmetrazine and its salts.~~

30 ~~3. Any substance which contains any quantity of~~

1 ~~methamphetamine, including its salts, isomers, and salts of~~  
2 ~~isomers.~~

3 ~~4. Methylphenidate.~~

4 ~~(ii)~~ (I) Any material, compound, mixture, or preparation <—  
5 unless specifically excepted or unless listed in another  
6 schedule which contains any quantity of the following substances  
7 having a potential for abuse associated with a depressant effect  
8 on the central nervous system:

9 1. Any substance which contains any quantity of a derivative  
10 of barbituric acid, or any salt of a derivative of barbituric  
11 acid.

12 2. Chorhexadol.

13 3. Glutethimide.

14 4. Lysergic acid.

15 5. Lysergic acid amide.

16 6. Methyprylon.

17 7. Phencyclidine.

18 8. Sulfondiethylmethane.

19 9. Sulfonethylmethane.

20 10. Sulfonmethane.

21 ~~(iii)~~ (II) Nalorphine. <—

22 ~~(iv)~~ (III) Any material, compound, mixture, or preparation <—  
23 containing limited quantities ~~of any~~ of the following narcotic <—  
24 drugs, or any salts thereof, ~~except those narcotic drugs~~ UNLESS <—  
25 specifically excepted or listed in other schedules:

26 1. Not more than ~~one and eighty one hundredths~~ 1.8 grams of <—  
27 codeine per ~~one hundred~~ 100 milliliters or not more than ~~ninety~~ <—  
28 90 milligrams per dosage unit, with an equal or greater quantity  
29 of an isoquinoline alkaloid of opium.

30 2. Not more than ~~one and eighty one hundredths~~ 1.8 grams of <—

1 codeine per ~~one hundred~~ 100 milliliters or not more than ~~ninety~~ <—  
2 90 milligrams per dosage unit, with one or more active,  
3 nonnarcotic ingredients in recognized therapeutic amounts.

4 3. Not more than ~~three hundred~~ 300 milligrams of <—  
5 dihydrocodeinone per ~~one hundred~~ 100 milliliters or not more <—  
6 than ~~fifteen~~ 15 milligrams per dosage unit, with a fourfold or <—  
7 greater quantity of an isoquinoline alkaloid of opium.

8 4. Not more than ~~three hundred~~ 300 milligrams of <—  
9 dihydrocodeinone per ~~one hundred~~ 100 milliliters or not more <—  
10 than ~~fifteen~~ 15 milligrams per dosage unit, with one or more <—  
11 active, nonnarcotic ingredients in recognized therapeutic  
12 amounts.

13 5. Not more than ~~one and eighty one hundredths~~ 1.8 grams of <—  
14 dihydrocodeine per ~~one hundred~~ 100 milliliters or not more than <—  
15 ~~ninety~~ 90 milligrams per dosage unit, with one or more active, <—  
16 nonnarcotic ingredients in recognized therapeutic amounts.

17 6. Not more than ~~three hundred~~ 300 milligrams of <—  
18 ethylmorphine per ~~one hundred~~ 100 milliliters or not more than <—  
19 ~~fifteen~~ 15 milligrams per dosage unit, with one or more active, <—  
20 nonnarcotic ingredients in recognized therapeutic amounts.

21 7. Not more than ~~five hundred~~ 500 milligrams of opium per <—  
22 ~~one hundred~~ 100 milliliters or per ~~hundred~~ 100 grams, or not <—  
23 more than ~~twenty five~~ 25 milligrams per dosage unit, with one or <—  
24 more active, nonnarcotic ingredients in recognized therapeutic  
25 amounts.

26 8. Not more than ~~fifty~~ 50 milligrams of morphine per ~~one~~ <—  
27 ~~hundred~~ 100 milliliters or per ~~one hundred grams~~ 100 GRAMS AND <—  
28 NOT MORE THAN 2.5 MILLIGRAMS PER DOSAGE UNIT with one or more  
29 active, nonnarcotic ingredients in recognized therapeutic  
30 amounts.

1 (v) The secretary may by regulation except any compound,  
2 mixture, or preparation containing any drug or controlled  
3 ~~dangerous~~ substance listed in subclauses (i) and (ii) of this <—  
4 schedule above from the application of those provisions of this  
5 act covering controlled ~~drugs~~, SUBSTANCES, if the compound, <—  
6 mixture, or preparation contains one or more active medicinal  
7 ingredients not having a stimulant or depressant effect on the  
8 central nervous system: Provided, That such admixtures shall be  
9 included therein in such combinations, quantity, proportion, or  
10 concentration as to vitiate the potential for abuse of the  
11 substances which do have a stimulant or depressant effect on the  
12 central nervous system.

13 (vi) The secretary ~~shall~~ MAY by regulation exempt any <—  
14 nonnarcotic substance from the control under this act if such  
15 substance may, under the provisions of the Federal Food, Drug,  
16 and Cosmetic Act (21 U.S.C. 301 et seq.), be lawfully sold over  
17 the counter without a prescription.

18 (4) Schedule IV--In determining that a substance comes  
19 within this schedule, the secretary shall find: a low potential  
20 for abuse relative to substances in Schedule III; currently  
21 accepted medical use ~~in treatment~~ in the United States; and <—  
22 limited physical ~~dependence~~ and/or psychological dependence <—  
23 liability relative to the substances listed in Schedule III. The  
24 following controlled ~~dangerous~~ substances are included in this <—  
25 schedule:

26 (i) Any material, compound, mixture, or preparation, unless  
27 specifically excepted or unless listed in another schedule,  
28 which contains any quantity of the following substances having a  
29 potential for abuse associated with a depressant effect on the  
30 central nervous system:

1	1. Barbitol.	
2	2. CHLORDIAZEPOXIDE.	<—
3	<del>2.</del> 3. Chloral betaine.	<—
4	<del>3.</del> 4. Chloral hydrate.	<—
5	5. DIAZEPON.	<—
6	<del>4.</del> 6. Ethchlorvynol.	<—
7	<del>5.</del> 7. Ethinamate.	<—
8	<del>6.</del> 8. Methohexital.	<—
9	<del>7.</del> 9. Meproamate.	<—
10	<del>8.</del> 10. Methylphenobarbital.	<—
11	<del>9.</del> 11. Paraldehyde.	<—
12	<del>10.</del> 12. Petrichloral.	<—
13	<del>11.</del> 13. Phenobarbital.	<—
14	14. PROPOXYPHENE.	<—

(ii) The secretary may by regulation except any compound, mixture, or preparation containing any drug or controlled dangerous substance listed in subclause (i) of this schedule above from the application of those provisions of this act covering controlled drugs, if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system: Provided, That such admixtures shall be included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which do have a stimulant or depressant effect on the central nervous system.

(iii) The secretary ~~shall~~ MAY by regulation exempt any nonnarcotic substance from the control under this act if such substance may, under the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), be lawfully sold over

1 the counter without a prescription.

2 (5) Schedule V--In determining that a substance comes within  
3 this schedule, the secretary shall find: a low potential for  
4 abuse relative to the substances listed in Schedule IV;  
5 currently accepted medical use in the United States; and limited  
6 physical dependence and/or psychological dependence liability  
7 relative to the substances listed in Schedule IV. The following  
8 controlled ~~dangerous~~ substances are included in this schedule: <—

9 (i) Any compound, mixture, or preparation containing limited  
10 quantities of any of the following ~~narcotic drugs~~ NARCOTICS OR <—  
11 ANY OF THEIR SALTS, which shall include one or more nonnarcotic  
12 active medicinal ingredients in sufficient proportion to confer  
13 upon the compound, mixture, or preparation, valuable medicinal  
14 qualities other than those possessed by the narcotic ~~drug~~ alone: <—

15 1. Not more than ~~two hundred~~ 200 milligrams of codeine, ~~per~~ <—  
16 ~~one hundred~~ OR ANY OF ITS SALTS, PER 100 milliliter or per ~~one~~ <—  
17 ~~hundred grams~~ 100 GRAMS AND NOT MORE THAN 100 MILLIGRAMS PER <—  
18 DOSAGE UNIT.

19 2. Not more than ~~one hundred~~ 100 milligrams of <—  
20 dihydrocodeine, OR ANY OF ITS SALTS, per ~~one hundred~~ 100 <—  
21 milliliters or per ~~one hundred~~ 100 grams AND NOT MORE THAN 5 <—  
22 MILLIGRAMS PER DOSAGE UNIT.

23 3. Not more than ~~one hundred~~ 100 milligrams of ~~ethylmorphine~~ <—  
24 ~~per one hundred milliliters or per one hundred grams.~~  
25 ETHYLMORPHINE, OR ANY OF ITS SALTS, PER 100 MILLILITERS OR PER <—  
26 100 GRAMS AND NOT MORE THAN 5 MILLIGRAMS PER DOSAGE UNIT.

27 4. Not more than ~~two and five tenths~~ 2.5 milligrams of <—  
28 diphenoxylate and not less than ~~twenty five~~ 25 micrograms of <—  
29 atropine sulfate per dosage unit.

30 5. Not more than ~~one hundred~~ 100 milligrams of opium per ~~one~~ <—

1   ~~hundred 100 milliliters or per one hundred 100 grams, or not~~       <—  
2   ~~more than five 5 milligrams per dosage unit.~~                       <—

3       ~~Section 5. Exempt Substances and Drugs. (a) In accordance~~       <—  
4   ~~with the provisions of section 3, the secretary, after~~  
5   ~~consultation and upon the recommendation of the board, may, by~~  
6   ~~regulation, exempt, from the provisions of this act relating to~~  
7   ~~controlled dangerous substances or controlled drugs to such~~  
8   ~~extent as he determines to be consistent with the public~~  
9   ~~welfare, substances and drugs found by the secretary:~~

10       ~~(1) Either to possess no addiction forming or addiction~~  
11   ~~sustaining liability or not to possess an addiction forming or~~  
12   ~~addiction sustaining liability sufficient to warrant imposition~~  
13   ~~of all of the requirements of this act; and~~

14       ~~(2) Not to permit recovery of a controlled dangerous~~  
15   ~~substance or controlled drug having such an addiction forming or~~  
16   ~~addiction sustaining liability with such relative technical~~  
17   ~~simplicity and degree of yield as to create a risk of improper~~  
18   ~~use.~~

19       ~~(b) In exercising the authority granted in subsection (a),~~  
20   ~~the secretary, by regulations and without special findings,~~  
21   ~~shall, unless cogent reasons require otherwise in the interest~~  
22   ~~of public health, grant exempt status to such substances and~~  
23   ~~drugs as are determined to be exempt under the Federal narcotic~~  
24   ~~law and regulations and the Federal law and regulations~~  
25   ~~pertaining to controlled drugs and controlled dangerous~~  
26   ~~substances.~~

27       ~~(c) If the secretary shall subsequently determine that any~~  
28   ~~exempt substance or drug does possess a degree of addiction~~  
29   ~~liability that results in abusive use, he shall, by regulation,~~  
30   ~~remove such substance or drug from exempt status effective on a~~



1 ~~date fixed by the regulation.~~

2 SECTION 5. EXEMPT CONTROLLED SUBSTANCES, OTHER DRUGS, <—  
3 DEVICES AND COSMETICS.--(A) EXCEPT AS OTHERWISE PROVIDED HEREIN,  
4 THE SECRETARY, AFTER CONSULTATION WITH AND UPON THE  
5 RECOMMENDATION OF THE BOARD, MAY, BY REGULATION, EXEMPT FROM THE  
6 PROVISIONS OF THIS ACT RELATING TO CONTROLLED SUBSTANCES, OTHER  
7 DRUGS, DEVICES AND COSMETICS TO SUCH EXTENT AS HE DETERMINES TO  
8 BE CONSISTENT WITH THE PUBLIC HEALTH.

9 Section 6. Registration.--(a) No person shall operate within  
10 this Commonwealth as a manufacturer, ~~wholesaler~~ DISTRIBUTOR or <—  
11 retailer of ~~drugs or~~ CONTROLLED SUBSTANCES, OTHER DRUGS AND <—  
12 devices nor sell, offer for sale nor solicit the purchase of  
13 ~~drugs or devices nor hold drugs or devices~~ CONTROLLED <—  
14 SUBSTANCES, OTHER DRUGS AND DEVICES NOR HOLD THEM for sale or  
15 resale until such person has registered under this act with the  
16 secretary. Such registration must be renewed annually in  
17 accordance with rules and regulations relating thereto.

18 (1) Any manufacturer or ~~wholesaler~~ DISTRIBUTOR not operating <—  
19 an establishment within this Commonwealth, but employing sales  
20 representatives or ~~detailmen~~ AGENTS within this Commonwealth, <—  
21 shall either register as a manufacturer or ~~wholesaler~~ <—  
22 DISTRIBUTOR as the case may be, or file, in lieu of <—  
23 registration, with the secretary the names and addresses of such  
24 representatives and ~~detailmen~~ AGENTS, and shall promptly inform <—  
25 the secretary of any changes in said list.

26 (2) Separate registration with the secretary shall be  
27 required annually for each place at which such person carries on  
28 activities as a manufacturer, ~~wholesaler~~ DISTRIBUTOR or retailer <—  
29 within this Commonwealth. The certificate evidencing such  
30 registration shall be conspicuously displayed and shall not be

1 transferable.

2 (3) ~~Certificates of registration~~ REGISTRATIONS issued by the <—  
3 ~~State Board of Pharmacy~~ SECRETARY or under the law preceding <—  
4 this act to manufacturers, DISTRIBUTORS OR RETAILERS shall <—  
5 continue to be valid for the period issued and, upon expiration,  
6 shall be renewed in the manner provided for renewal of <—  
7 ~~certificates~~ of registration issued pursuant to this section.  
8 Nothing contained herein shall be construed to require the  
9 registration hereunder of ~~pharmacists registered by the Board of~~ <—  
10 ~~Pharmacy nor pharmacies licensed by said board,~~ ANY PRACTITIONER <—  
11 REGISTERED OR LICENSED BY THE APPROPRIATE STATE BOARD, nor to  
12 require the separate registration of agents or employees of  
13 persons registered pursuant to the provisions of this section,  
14 or of sales representatives or ~~detailmen~~ AGENTS of manufacturers <—  
15 or ~~wholesalers nor~~ DISTRIBUTORS NOT operating an establishment <—  
16 within this Commonwealth whose names and addresses are on file  
17 with the secretary: Provided, however, That all persons  
18 registered pursuant to this section, whether located within this  
19 Commonwealth or not, shall be deemed to have accepted and shall  
20 be subject to all provisions of this act.

21 (b) No person shall operate as a manufacturer of CONTROLLED <—  
22 SUBSTANCES OR OTHER drugs ~~or devices~~ unless ~~such drugs or~~ <—  
23 ~~devices~~ THEY are manufactured under the supervision of a <—  
24 registered pharmacist, chemist or other person possessing at  
25 least five years' experience in the manufacture of CONTROLLED <—  
26 SUBSTANCES, OR OTHER drugs ~~or devices~~ or such other person <—  
27 approved by the secretary as qualified by scientific or  
28 technical training or experience to perform such duties of  
29 supervision as may be necessary to protect the public health and  
30 safety.

1 (c) Each application for registration as a manufacturer  
2 shall be accompanied by a fee of one hundred dollars (\$100).  
3 Each application for registration as a ~~wholesaler~~ DISTRIBUTOR <—  
4 shall be accompanied by a fee of twenty-five dollars (\$25). Each  
5 application for registration as a retailer shall be accompanied  
6 by a fee of two dollars (\$2). Applications shall be on forms  
7 prescribed by the secretary. Registration ~~certificates~~ shall be <—  
8 renewed annually and applications therefor shall be accompanied  
9 by the same fee as for initial applications.

10 (d) Registration shall become effective at noon on the  
11 sixtieth day after application therefor is filed: Provided,  
12 however, That the secretary shall have authority to issue a  
13 registration ~~certificate~~ or to issue an order denying such <—  
14 registration pursuant to subsection (e) hereof at any time prior  
15 to the expiration of such sixty day period. Renewal of  
16 registration shall be effective upon certification by the  
17 secretary that the applicant has met all requirements for such  
18 renewal.

19 (e) The secretary may refuse the initial registration OR <—  
20 SUSPEND REGISTRATION (i) of any person who has made MATERIAL <—  
21 false representation in the application for registration; ~~or of~~ <—  
22 ~~any person or agent or employe of any person who manufactures~~  
23 ~~drugs or devices other than under the supervision of a~~  
24 ~~registered pharmacist, chemist or other person possessing at~~  
25 ~~least five years' experience in the manufacture of said drugs or~~  
26 ~~devices, or such person approved by the secretary as provided~~  
27 ~~herein, or who fails to comply with the standards of sanitation,~~  
28 ~~equipment, materials or supplies promulgated pursuant to the~~  
29 ~~provisions of this act, until such person has filed a proper~~  
30 ~~application and is in compliance with this section and with said~~

standards of sanitation, equipment, materials and supplies; and  
(ii) in addition to the foregoing, of (II) any manufacturer or  
wholesaler, (A) DISTRIBUTOR OR ANY EMPLOYEE THEREOF who has been  
convicted of a violation of any law of this Commonwealth or of  
the United States relating to the sale, use or possession of  
controlled drugs SUBSTANCES OR OTHER DRUGS OR DEVICES if such  
refusal shall be necessary for the protection of the public  
health and safety. or (B) who knowingly employs in any capacity  
connected with the preparation, handling or sale of controlled  
drugs any person convicted of a violation of the laws of this  
Commonwealth or of the United States relating to the sale, use  
or possession of narcotics, unless prior consent shall have been  
obtained from the secretary.

(f) In addition to all other penalties provided for  
violations of this act, the THE secretary may, after notice and  
hearing pursuant to the Administrative Agency Law as amended,  
(i) in the case of a manufacturer registered hereunder, prohibit  
the sale in Pennsylvania of any CONTROLLED SUBSTANCES, OTHER  
drugs or devices involved in any violation of this act. which he  
commits with knowledge or reason to know of said violation, (ii)  
THE SECRETARY MAY suspend or revoke the registration of any  
manufacturer if said registrant, WHO (A) makes any sale in  
Pennsylvania of any CONTROLLED SUBSTANCES, OTHER drug or device  
DRUGS OR DEVICES whose sale has been prohibited under the  
preceding clause. or (B) is convicted of a violation of any law  
of this Commonwealth or of the United States relating to the  
sale, use or possession of drugs or controlled substances if  
such suspension or revocation shall be necessary for the  
protection of the public health and safety, (C) knowingly  
employs in any capacity connected with the preparation, handling

~~1 or sale of drugs or controlled substances any person convicted~~  
~~2 of a violation of the laws of this Commonwealth or of the United~~  
~~3 States relating to the sale, use or possession of drugs or~~  
~~4 controlled substances unless prior consent shall have been~~  
~~5 obtained from the secretary, (iii) in the case of a wholesaler~~  
~~6 registered hereunder, suspend or revoke his registration for any~~  
~~7 violation of this act which he commits with knowledge or reason~~  
~~8 to know of said violation if such suspension or revocation shall~~  
~~9 be necessary for the protection of the public health and safety.~~

10 (g) If the secretary takes any action refusing registration  
11 or ~~disciplining any registrant~~ REVOKING OR SUSPENDING <—  
12 REGISTRATION under subsections (e) and (f), the aggrieved party  
13 may, within fifteen days after the date upon which a copy of the  
14 order is delivered to the address indicated on the application  
15 or the registration ~~certificate~~, whichever is applicable, <—  
16 petition the board for review. The board shall, within thirty  
17 days, grant a hearing and, as soon thereafter as practicable,  
18 adopt, modify or reject the action of the secretary. Any action  
19 by the board shall be deemed an adjudication to which the  
20 provisions of the Administrative Agency Law, as amended, shall  
21 be applicable.

22 Section 7. Adulteration.--A CONTROLLED SUBSTANCE, OTHER <—  
23 drug, ~~or~~ device or cosmetic shall be deemed to be adulterated: <—

24 (1) (i) If it consists, in whole or in part, of any filthy,  
25 putrid or decomposed substance; (ii) if it has been prepared,  
26 packed or held under UNSANITARY conditions whereby it may have <—  
27 been contaminated with filth, or whereby it may have been  
28 rendered injurious to health; (iii) ~~if~~ AND IF IT IS A DRUG OR A <—  
29 DEVICE its container is composed, in whole or in part, of any  
30 poisonous or deleterious substance which may render the contents

1 injurious to health; (iv) if it has been exposed to conditions  
2 of fire, water or extreme temperature, which may have rendered  
3 it injurious to health; (v) if (A) it bears or contains for  
4 purposes of coloring only a color additive, unless it be a hair  
5 dye which is unsafe within the meaning of section 9 of this act,  
6 or (B) it is a color additive the intended use of which in or on  
7 drugs, devices or cosmetics is for purposes of coloring only and  
8 is unsafe, unless it be a hair dye within the meaning of section  
9 9 of this act.

10 (2) If it purports to be or is represented as a drug OR <—  
11 DEVICE, the name of which is recognized in an official  
12 compendium and its strength differs from or its quality or  
13 purity falls below the standards set forth in such compendium.  
14 Such determination as to strength, quality or purity, shall be  
15 made in accordance with the tests or methods of assay set forth  
16 in such compendium, or in the absence of or inadequacy of such  
17 tests or methods of assay those prescribed under the authority  
18 of the Federal act. No drug OR DEVICE defined in an official <—  
19 compendium shall be deemed to be adulterated under this  
20 subsection because it differs from the standard of strength,  
21 quality or purity therefor set forth in such compendium, if its  
22 difference in strength, quality or purity from such standard is  
23 plainly stated on its label. ~~Whenever a drug is recognized in~~ <—  
24 ~~both the United States Pharmacopoeia and the Homeopathic~~  
25 ~~Pharmacopoeia of the United States, it shall be subject to the~~  
26 ~~requirements of the United States Pharmacopoeia unless it is~~  
27 ~~labeled and offered for sale as a homeopathic drug, in which~~  
28 ~~case, it shall be subject to the provisions of the Homeopathic~~  
29 ~~Pharmacopoeia of the United States and not to those of the~~  
30 ~~United States Pharmacopoeia.~~

1       (3) If it is a color additive and is to be used or is  
2 recommended for use as a hair dye and it is not exempt under  
3 section 9 unless its label bears the following legend  
4 conspicuously displayed thereon: "Caution. This product contains  
5 ingredients which may cause skin irritation on certain  
6 individuals and a preliminary test according to accompanying  
7 directions should first be made. This product must not be used  
8 for dyeing the eyelashes or eyebrows, to do so may cause  
9 blindness," and the labeling bears adequate directions for such  
10 preliminary testing. For the purpose of this paragraph, the term  
11 "hair dye" shall not include eyelash dyes or eyebrow dyes.

12       (4) If it is not subject to the provisions of clause (2) of  
13 this section and its strength differs from or its purity or  
14 quality falls below that which it purports or is represented to  
15 possess.

16       (5) If it is a drug OR DEVICE and any substance has been (i) <—  
17 mixed or packed therewith so as to reduce its quality or  
18 strength, or (ii) substituted wholly or in part therefor.

19       Section 8. Misbranding.--A CONTROLLED SUBSTANCE, OTHER drug <—  
20 or device or cosmetic shall be deemed to be misbranded:

21       (1) If its labeling is false or misleading in any  
22 particular.

23       (2) If in package form unless it bears a label containing  
24 (i) the name and place of business of the manufacturer, packer  
25 or distributor, and (ii) an accurate statement of the quantity  
26 of the contents in terms of weight measure or numerical count:  
27 Provided, That under subclause (ii) of this clause, reasonable  
28 variations shall be permitted and exemptions as to small  
29 packages shall be established by regulations.

30       (3) If any word, statement or other information required by

1 or under authority of this act to appear on the label, or  
2 labeling is not prominently placed thereon with such  
3 conspicuousness (as compared with other words, statements,  
4 designs or devices in the labeling), and in such terms as to  
5 render it likely to be read and understood by the ordinary  
6 individual under customary conditions of purchase and use.

7 (4) If it is for use by man and is a ~~narcotic, depressant or~~ <—  
8 ~~stimulant drug~~ CONTROLLED SUBSTANCE designated BY FEDERAL LAW as <—  
9 habit-forming, unless its label bears the ~~name and quantity or~~ <—  
10 ~~proportion of such substance or derivative and if required by~~  
11 ~~applicable Federal law or regulations, in juxtaposition~~  
12 ~~therewith~~ the statement "Warning. May Be Habit-Forming."

13 (5) If it is a drug and is not designated solely by a name  
14 recognized in an official compendium, unless its label bears (i)  
15 the common or usual name of the drug, if such there be, and (ii)  
16 in case it is fabricated from two or more ingredients, the  
17 common or usual name of each active ingredient including the  
18 kind and quantity or proportion of any alcohol and also  
19 including whether active or not, the name and quantity or  
20 proportion of any bromides, ether, chloroform, acetanilid,  
21 acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine,  
22 hyoscyamine, arsenic, digitalis ~~glucosides~~ GLYCOSIDES, mercury, <—  
23 ouabain, strophanthin, strychnine, thyroid or any derivative or  
24 preparation of any such substances contained therein: Provided,  
25 That to the extent that compliance with the requirements of  
26 subclause (ii) of this clause is impracticable, exemptions shall  
27 be established by regulations.

28 (6) Unless its labeling bears (i) adequate directions for  
29 use, and (ii) such adequate warnings against use in those  
30 pathological conditions or by children where its use may be



1 dangerous to health or against unsafe dosage or methods or  
2 duration of administration or application in such manner and  
3 form as are necessary for the protection of users: Provided,  
4 That where any requirement of subclause (i) of this clause as  
5 applied to any drug, ~~or~~ device OR COSMETIC is not necessary for <—  
6 the protection of the public health, regulations shall be  
7 promulgated exempting such drug, ~~or~~ device or cosmetic from such <—  
8 requirements.

9 (7) If it purports to be a drug OR DEVICE the name of which <—  
10 is recognized in an official compendium, unless it is packaged  
11 and labeled as prescribed therein: Provided, That the method of  
12 ~~packing~~ PACKAGING may be modified with a consent of the <—  
13 secretary. ~~Whenever a drug is recognized in both the United~~ <—  
14 ~~States Pharmacopoeia and the Homeopathic Pharmacopoeia of the~~  
15 ~~United States, it shall be subject to the requirements of the~~  
16 ~~United States Pharmacopoeia with respect to packaging and~~  
17 ~~labeling, unless it is labeled and offered for sale as a~~  
18 ~~homeopathic drug, in which case, it shall be subject to the~~  
19 ~~provisions of the Homeopathic Pharmacopoeia of the United States~~  
20 ~~and not to those of the United States Pharmacopoeia.~~

21 (8) If it has been found by the secretary to be a drug,  
22 DEVICE OR COSMETIC liable to deterioration unless it is packaged <—  
23 in such form and manner and its label bears a statement  
24 specifying such precautions against deterioration as the  
25 secretary shall by regulation require as necessary for the  
26 protection of public health. ~~No such regulation shall be~~ <—  
27 ~~established for any drug recognized in an official compendium,~~  
28 ~~or for any drug which regulations specifying precautions against~~  
29 ~~deterioration have been promulgated by the Secretary of Health,~~  
30 ~~Education and Welfare under the Federal act.~~

1 (9) If it is offered for sale or sold under the name of  
2 another drug, device or cosmetic or brand of drug, device or  
3 cosmetic, or if it is manufactured, packaged, labeled or sold in  
4 such manner as to give rise to a reasonable probability that the  
5 purchaser will be led to believe he is purchasing such drug,  
6 device or cosmetic as another drug, device or cosmetic or as the  
7 product of another manufacturer.

8 (10) If it is dangerous to health when used in the dosage or  
9 with the frequency or duration prescribed, recommended or  
10 suggested in the labeling thereof.

11 ~~(11) A drug dispensed by filling or refilling a written or~~ <—  
12 ~~oral prescription issued by a person licensed by law to~~  
13 ~~administer or prescribe such drug (except a drug sold in the~~  
14 ~~course of the conduct of a business of selling drugs pursuant to~~  
15 ~~diagnosis by mail) shall be exempt from the requirements of this~~  
16 ~~section, except clauses (1) and (9) if such drug bears a label~~  
17 ~~containing the name and place of business of the dispenser, the~~  
18 ~~serial number and date of such prescription, the name of the~~  
19 ~~person prescribing such drug, the name of the patient and such~~  
20 ~~directions for use and cautionary statements, if any, contained~~  
21 ~~in such prescription.~~

22 ~~(12)~~ (11) If it is a DRUG, DEVICE OR cosmetic and its <—  
23 container is so made, formed or filled as to be misleading.

24 (12) IF IT IS A CONTROLLED SUBSTANCE ITS COMMERCIAL <—  
25 CONTAINER MUST BEAR A LABEL CONTAINING AN IDENTIFYING SYMBOL FOR  
26 SUCH SUBSTANCE IN ACCORDANCE WITH FEDERAL REGULATIONS.

27 Section 9. Color Additives.--A color additive shall be  
28 deemed unsafe unless there is in effect with respect to such  
29 additive a regulation issued pursuant to the Federal act  
30 permitting such use and unless such additive and use thereof

1 conforms in all respects to the requirements of the Federal act  
2 and regulations issued pursuant thereto.

3 Section 10. New Drugs.--~~(a) No person shall sell, deliver, <—~~  
4 offer for sale, hold for sale, or give away, any new drug unless  
5 (i) an application with respect thereto has been approved under  
6 the appropriate Federal act. ~~or (ii) when not subject to the <—~~  
7 Federal act unless such drug has been tested and has not been  
8 found to be unsafe or ineffective for use under the conditions  
9 prescribed, recommended or suggested in the labeling thereof,  
10 and prior to selling or offering for sale such drug, there has  
11 been filed with the secretary an application, setting forth full  
12 reports of investigations which have been made to show whether  
13 or not such drug is safe and effective for use, a full list of  
14 the articles used as components of such drug, a full statement  
15 of the composition of such drug, a full description of the  
16 methods used in and the facilities and controls used for the  
17 manufacture, processing and packing of such drug, such samples  
18 of such drug and of the articles used as components thereof as  
19 the secretary may require, and specimens of the labeling  
20 proposed to be used for such drug.

21 ~~(b) An application provided for in subsection (a) (ii) shall~~  
22 ~~be submitted to the board for its recommendations but such~~  
23 ~~application shall become effective on the sixtieth day after the~~  
24 ~~filing thereof except that if the secretary finds, after due~~  
25 ~~notice to the applicant and giving him an opportunity for a~~  
26 ~~hearing, that the drug is not safe and effective for use under~~  
27 ~~the conditions prescribed, recommended or suggested in the~~  
28 ~~proposed labeling thereof, he shall prior to the effective date~~  
29 ~~of the application issue an order refusing to permit the~~  
30 ~~application to become effective.~~

~~(c) This section shall not apply:~~

~~(1) To a drug intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety in drugs, provided the drug is plainly labeled "For investigational use only," or words of similar import, and provided such investigator furnishes a statement to the secretary showing that he has adequate facilities for such investigation;~~

~~(2) To a drug sold in this State at any time prior to enactment of this act or introduced into interstate commerce at any time prior to the enactment of the Federal act; or~~

~~(3) To any drug which is licensed under the animal virus serum and toxin law of March 4, 1913 (21 U.S.C. 151, et seq.) or under the Public Health Service Act of July 1, 1944 (42 U.S.C. 201, et seq.).~~

~~(d) An order refusing to permit an application under this section to become effective may be revoked by the secretary.~~

Section 11. Professional Prescription, Administration, and Dispensing.--~~(a) Except when dispensed directly by a licensed~~

(A) EXCEPT WHEN DISPENSED OR ADMINISTERED DIRECTLY TO THE PATIENT BY A practitioner OR HIS AUTHORIZED AGENT, other than a pharmacist, to an ultimate user, no controlled substance in Schedule II, may be dispensed without the written prescription of a ~~licensed~~ practitioner, except in emergency situations, as prescribed by the secretary by regulation. No prescription for a controlled ~~dangerous~~ substance in Schedule II may be refilled.

(b) Except when dispensed directly by a ~~licensed~~ practitioner, other than a pharmacist, to an ultimate user, no controlled substance in Schedule III or IV, ~~which is a~~ prescription drug as determined under the Federal Food, Drug and

1 ~~Cosmetic Act~~, may be dispensed without a written or oral  
2 prescription. Such prescriptions ~~may~~ SHALL not be filled or <—  
3 refilled more than six months after the date thereof or be  
4 refilled more than five times after the date of the prescription  
5 unless renewed by the ~~licensed~~ practitioner. <—  
6 (c) No controlled substance in Schedule V ~~which is a drug~~ <—  
7 may be distributed or dispensed FOR other than ~~for a medical~~ <—  
8 MEDICINAL purpose. <—  
9 (d) A ~~licensed~~ practitioner may prescribe, administer, or <—  
10 dispense a controlled ~~dangerous~~ substance or OTHER drug OR <—  
11 DEVICE only (i) in good faith in the course of his professional  
12 practice, (ii) within the scope of the patient relationship, and  
13 (iii) in accordance with treatment principles accepted by a  
14 responsible segment of the medical profession. A ~~licensed~~ <—  
15 practitioner may cause a controlled ~~dangerous~~ substance, OTHER <—  
16 DRUG OR DEVICE or drug to be administered by a professional  
17 assistant under his direction and supervision.  
18 (e) A veterinarian may prescribe, administer, or dispense a  
19 controlled ~~dangerous~~ substance, ~~or~~ OTHER drug OR DEVICE only (i) <—  
20 in good faith in the course of his professional practice, and  
21 (ii) not for use by a human being. He may cause a controlled  
22 ~~dangerous~~ substance, ~~or~~ OTHER drug OR DEVICE to be administered <—  
23 by a professional assistant under his direction and supervision.  
24 (f) Any ~~narcotic~~ drug OR DEVICE dispensed by a pharmacist <—  
25 pursuant to a ~~written~~ prescription ~~shall bear~~ ORDER WHICH BEARS <—  
26 a label showing (i) the name and address of the pharmacy and any  
27 registration number obtained pursuant to any applicable Federal  
28 laws, (ii) the name of the patient, or, if the patient is an  
29 animal, the name of the owner of the animal and the species of  
30 the animal, (iii) the name, address, and any registration number

1 required to be obtained pursuant to any applicable Federal laws,  
2 of the practitioner by whom the prescription ORDER was written, <—  
3 and (iv) such directions as may be stated on the prescription  
4 ORDER INCLUDING THE STATEMENT "TRANSFER OF THIS DRUG TO ANYONE <—  
5 OTHER THAN THE PATIENT FOR WHOM IT WAS PRESCRIBED IS ILLEGAL"  
6 AND (V) THE SERIAL NUMBER AND DATE OF FILING OF THE PRESCRIPTION  
7 ORDER.

8 Section 12. Records of Distribution of Controlled ~~Dangerous~~ <—  
9 Substances. ~~and Drugs,~~--(a) Every person who sells or otherwise <—  
10 distributes controlled ~~dangerous~~ substances, ~~or controlled~~ <—  
11 ~~drugs,~~ shall keep records of all purchases or other receipt and  
12 sales or other distribution of such ~~drugs~~ SUBSTANCES for two <—  
13 years from the date of purchase or sale. Such records shall  
14 include the name and address of the person from whom purchased  
15 or otherwise received or to whom sold or otherwise distributed,  
16 the date of purchase or receipt or sale or distribution, and the  
17 quantity involved: Provided, however, That this subsection shall  
18 not apply to a ~~licensed~~ practitioner ~~authorized by law to~~ <—  
19 ~~administer and dispense~~ who dispenses controlled ~~dangerous~~ <—  
20 ~~substances or drugs~~ SUBSTANCES to his patients, unless the <—  
21 ~~licensed~~ practitioner is regularly engaged in charging his <—  
22 patients, whether separately or together with charges for other  
23 professional services, for substances so dispensed.

24 (b) Every practitioner licensed by law to administer,  
25 dispense or distribute ~~narcotic drugs~~ CONTROLLED SUBSTANCES <—  
26 shall keep a record of all such substances ~~and drugs,~~ <—  
27 administered, dispensed or distributed by him, showing the  
28 amount administered, dispensed or distributed, the date, the  
29 name and address of the patient, and in the case of a  
30 veterinarian, the name and address of the owners of the animal

1 to whom such ~~drugs~~ SUBSTANCES are dispensed or distributed. Such <—  
2 record shall be kept for two years from the date of  
3 administering, dispensing or distributing such ~~drug~~ SUBSTANCE <—  
4 and shall be open for inspection by the proper authorities.

5 (C) PERSONS REGISTERED OR LICENSED TO MANUFACTURE OR <—  
6 DISTRIBUTE OR DISPENSE A CONTROLLED SUBSTANCE, OTHER DRUG OR  
7 DEVICE UNDER THIS ACT SHALL KEEP RECORDS AND MAINTAIN  
8 INVENTORIES IN CONFORMITY WITH THE RECORD-KEEPING AND INVENTORY  
9 REQUIREMENTS OF FEDERAL LAW AND WITH ANY ADDITIONAL REGULATIONS  
10 THE SECRETARY ISSUES.

11 ~~Section 13. Lawful Acts. The following acts are lawful~~ <—  
12 ~~within the Commonwealth:~~

13 ~~(1) The possession, control, dealing in, dispensing,~~  
14 ~~selling, delivery, distribution, prescription, trafficking in,~~  
15 ~~or giving of, any controlled dangerous substance, controlled~~  
16 ~~paraphernalia or controlled drug in strict compliance with the~~  
17 ~~provisions of this act and in the regular and lawful course of a~~  
18 ~~business, profession, employment, occupation or duties of (i)~~  
19 ~~manufacturers of drugs, (ii) persons engaged in the wholesale~~  
20 ~~drug trade, (iii) importers or exporters of drugs, (iv)~~  
21 ~~registered pharmacists in any licensed pharmacy, (v) bona fide~~  
22 ~~owners of pharmacies or drugstores, (vi) practitioners licensed~~  
23 ~~by law to administer, prescribe or dispense such drugs, (vii)~~  
24 ~~persons in the employ of the United States or of this~~  
25 ~~Commonwealth or of any county, municipality or township of this~~  
26 ~~Commonwealth and having such drugs in their possession by reason~~  
27 ~~of their official duties, (viii) warehousemen or common carriers~~  
28 ~~engaged bona fide in handling or transporting drugs, (ix) nurses~~  
29 ~~under the supervision of a physician, (x) persons in charge of a~~  
30 ~~laboratory where such drugs are used for the purpose of medical~~

1 ~~or scientific investigation, teaching or analysis and not for~~  
2 ~~further distribution, (xi) captains or proper officers of ships,~~  
3 ~~upon which no regular physician is employed, for the actual~~  
4 ~~medical needs of the officers and crew of their own ships only,~~  
5 ~~(xii) persons in the bona fide employ of any of the persons~~  
6 ~~above enumerated, (xiii) the provisions of this clause~~  
7 ~~pertaining to possession shall also apply to, in addition to the~~  
8 ~~foregoing, (A) persons having said drugs in their possession for~~  
9 ~~their own personal use only: Provided, That they have obtained~~  
10 ~~the same in good faith, for their own use, from a practitioner~~  
11 ~~licensed to prescribe or dispense such drugs, or in pursuance of~~  
12 ~~a prescription given them by a practitioner licensed to~~  
13 ~~prescribe such drugs or except as otherwise authorized by this~~  
14 ~~act, (B) persons having said drugs in their possession for the~~  
15 ~~use of an animal belonging to them: Provided, That they have~~  
16 ~~obtained the same in good faith, from a duly licensed~~  
17 ~~veterinarian, for the use of such animal, or in pursuance of a~~  
18 ~~prescription given by a duly licensed veterinarian.~~

19 ~~(2) The sale, dispensation, distribution or gift by any~~  
20 ~~manufacturer, producer, importer or person engaged in the~~  
21 ~~wholesale drug trade of any controlled dangerous substance or~~  
22 ~~controlled drug as evidenced by a written order signed by the~~  
23 ~~person authorized by law to possess, sell, dispense or prescribe~~  
24 ~~such drugs to whom such drug is sold, dispensed, distributed or~~  
25 ~~given. "Written order" hereunder shall include bills of lading,~~  
26 ~~invoices, receipts or written memorandums signed by the person~~  
27 ~~authorized by law to receive such drugs, showing the names and~~  
28 ~~quantities of drugs purchased.~~

29 ~~(3) The sale, dispensation, distribution or gift by any~~  
30 ~~registered pharmacist in any licensed pharmacy of any controlled~~



1 ~~dangerous substance or controlled drug to (i) a practitioner~~  
2 ~~licensed by law to administer, dispense or prescribe such drug,~~  
3 ~~(ii) a bona fide hospital, dispensary, asylum, sanatorium or~~  
4 ~~public institution, (iii) an individual in pursuance of a~~  
5 ~~written prescription, or an oral prescription subject to the~~  
6 ~~requirements hereinafter set forth, issued by a practitioner~~  
7 ~~licensed by law to prescribe such drug, which prescription shall~~  
8 ~~be dated as of the day on which signed and shall be signed by~~  
9 ~~the practitioner who issued the same, (iv) a person in charge of~~  
10 ~~a laboratory where such drugs are used in medical or scientific~~  
11 ~~investigation, teaching or analysis and not for sale or further~~  
12 ~~distribution, (v) the captain or proper officer of a ship upon~~  
13 ~~which no regular physician is employed for the actual medical~~  
14 ~~needs of the officers and crew of such ship only, (vi) a person~~  
15 ~~in the employ of the United States or of this Commonwealth or of~~  
16 ~~any county, municipality or township thereof, purchasing or~~  
17 ~~receiving the same in his official capacity.~~

18 ~~(4) Using, taking, administering to the person or causing to~~  
19 ~~be administered to the person, or administering to any other~~  
20 ~~person or causing to be administered to any other person, any~~  
21 ~~controlled dangerous substance or controlled drug under the~~  
22 ~~advice and direction and with the consent of a practitioner~~  
23 ~~licensed by law to prescribe or administer such drugs to human~~  
24 ~~beings.~~

25 ~~Section 14. Prohibited Acts; Penalties. (a) The following~~  
26 ~~commercial type acts and the causing thereof within the~~  
27 ~~Commonwealth are hereby prohibited:~~

28 ~~(1) The manufacture, sale or delivery, holding, offering for~~  
29 ~~sale, or possession of any drug, device or cosmetic that is~~  
30 ~~adulterated or misbranded.~~

~~(2) The adulteration or misbranding of any drug, device or cosmetic.~~

~~(3) The receipt in commerce of any drug, device or cosmetic that is adulterated or misbranded and the delivery or proffered delivery thereof for pay or otherwise.~~

~~(4) The sale, delivery for sale, holding for sale or offering for sale of any article in violation of section 10.~~

~~(5) The dissemination or publication of any false or materially misleading advertisement.~~

~~(6) The removal or disposal of a detained or embargoed article in violation of section 25, whether or not such article is in fact adulterated or misbranded.~~

~~(7) The adulteration, mutilation, destruction, obliteration or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a drug, device or cosmetic, if such act is done while such article is held for sale and results in such article being adulterated or misbranded.~~

~~(8) Forging, counterfeiting, simulating or falsely representing, or without proper authority using any mark, stamp, tag, label or other identification device authorized or required by regulation promulgated under the provisions of this act.~~

~~(9) Placing or causing to be placed upon any drug or pharmaceutical preparation, or upon the container of any drug or pharmaceutical preparation, with intent to defraud, the trademark, trade name or other identifying mark, imprint or device of another, or any likeness of any of the foregoing.~~

~~(10) Selling, dispensing, disposing of or causing to be sold, dispensed or disposed of, or keeping in possession, control or custody, or concealing any drug or pharmaceutical~~

~~preparation or any container of any drug or pharmaceutical preparation with knowledge that the trademark, trade name or other identifying mark, imprint or device of another, or any likeness of any of the foregoing, has been placed thereon in a manner prohibited by clause (9) hereof.~~

~~(11) Making, selling, disposing of or causing to be made, sold, or disposed of, or keeping in possession, control or custody, or concealing with intent to defraud, any punch, die, plate, stone or other thing designed to print, imprint or reproduce the trademark, trade name or other identifying mark, imprint or device of another or any likeness of any of the foregoing upon any drug, pharmaceutical preparation, or container thereof.~~

~~(12) The use on the labeling of any drug, or in any advertisement relating to such drug, of any representation or suggestion that any application with respect to such drug is effective under section 10 or that such drug complies with the provisions of such section.~~

~~(13) The use of any statement or representation in advertising or promoting the retail sale of any drug that the seller of such drug is registered under this act.~~

~~(14) The sale at retail of a nonproprietary drug except by a registered pharmacist in a licensed pharmacy or by a practitioner.~~

~~(15) The operation of a drug manufacturing, wholesaling or retailing establishment, except by registered pharmacists in a licensed pharmacy, without conforming with such standards respecting sanitation, materials, equipment and supplies as the secretary, after consultation with the board, may establish by regulation for the protection of the public health and safety.~~

1       ~~(16) The sale, dispensation, distribution or gift by any~~  
2       ~~registered pharmacist or operator of a licensed pharmacy of any~~  
3       ~~controlled dangerous substance or controlled drug listed in~~  
4       ~~Schedules II, III and IV of section 4 except in pursuance of an~~  
5       ~~oral order or a written order signed by the person to whom such~~  
6       ~~drugs are sold, dispensed, distributed or given as provided for~~  
7       ~~in section 11, when such drugs are sold, dispensed, distributed~~  
8       ~~or given to an individual in pursuance of a prescription. Such~~  
9       ~~prescription shall be regarded as the written order herein~~  
10       ~~required and no further written order shall be necessary. Such~~  
11       ~~orders shall be kept and preserved for a period of two years.~~  
12       ~~Where there is no initial written order in an emergency~~  
13       ~~situation, said order shall be verified by a written memorandum~~  
14       ~~signed by the vendee.~~

15       ~~(17) The sale, dispensation, distribution, prescription or~~  
16       ~~gift by any practitioner otherwise authorized by law so to do of~~  
17       ~~any controlled drug or controlled dangerous substance to any~~  
18       ~~person known to such practitioner to be a drug dependent person,~~  
19       ~~unless said drug is prescribed, administered, dispensed or~~  
20       ~~given, for the cure or treatment of some malady other than the~~  
21       ~~drug habit, except that a controlled drug such as methadone may~~  
22       ~~be permitted by such regulations for the treatment of the drug~~  
23       ~~habit pursuant to regulations providing for such use.~~

24       ~~(18) The administration, dispensation, delivery, gift or~~  
25       ~~prescription by any practitioner otherwise authorized by law so~~  
26       ~~to do of any controlled dangerous substance or controlled drug~~  
27       ~~except after a physical or visual examination of the person or~~  
28       ~~animal for whom said drugs are intended, said examination to be~~  
29       ~~made at the time said prescription is issued or at the time said~~  
30       ~~drug is administered, dispensed, given away or delivered by said~~

~~practitioner, or except where the practitioner is satisfied by evidence that the person is not a drug dependent person. No veterinarian shall sell, dispense, distribute, give or prescribe any narcotic drug for the use of a human being.~~

~~(19) The sale at retail or dispensing of any controlled drug or controlled dangerous substance listed in Schedules II, III and IV to any person, except to one authorized by law to sell, dispense, prescribe or possess such drugs or substances, unless upon the written or oral prescription of a person licensed by law to prescribe such drug and unless compounded or dispensed by a registered pharmacist or under the immediate personal supervision of a registered pharmacist, or the refilling of a written or oral prescription for a drug, unless such refilling is authorized by the prescriber either in the original written prescription or by written confirmation of the original oral prescription. The provisions of this subsection shall not apply to a practitioner licensed to prescribe or dispense such drugs, who keeps a record of the amount of such drugs purchased and a dispensing record showing the date, name, and quantity of the drug dispensed and the name and address of the patient, as required by this act.~~

~~(20) The dispensing of any controlled drug or controlled dangerous substance by a pharmacist without affixing to the container in which the drug is sold or dispensed a label bearing the name and address of the pharmacy, the name of the patient, the date compounded and the consecutive number of the prescription under which it is recorded in his prescription files, together with the name of the practitioner prescribing it.~~

~~(21) The dispensing of a controlled drug or controlled~~

~~dangerous substance by a practitioner otherwise authorized by law so to do without affixing to the container in which the drug is sold or dispensed a label bearing the name and address of the practitioner, the date dispensed, the name of the patient and the directions for the use of the drug by the patient.~~

~~(22) The selling or possession by a pharmacy or wholesaler of any drug or controlled dangerous substance defined herein unless the container bears a label, securely attached thereto, stating conspicuously the specific name of the drug and the proportion or amount thereof. Such label shall not be necessary when the drug is dispensed by a pharmacist upon a prescription or dispensed by a practitioner authorized by law to dispense such drugs to his own patients and the container is labeled in the manner prescribed in this act.~~

~~(23) The purchase or receipt in commerce by any person of any drugs or devices from any person not authorized by law to sell, distribute, dispense or otherwise deal in such drugs or devices.~~

~~(24) The using by any person to his own advantage or revealing other than to the secretary or officers or employees of the Department of Health or to the council or to the board or to courts or a hearing examiner when relevant to proceedings under this act any information acquired under authority of this act concerning any method or process which as a trade secret is entitled to protection. Such information obtained under the authority of this act shall not be admitted in evidence in any proceeding before any court of the Commonwealth except in proceedings under this act.~~

~~Any person who violates any of the provisions of this subsection (a) shall be guilty of a misdemeanor, and shall, on~~

~~conviction thereof, be sentenced to imprisonment for not more than one year or a fine of not more than five thousand dollars (\$5,000), or both; but if the violation is committed after a prior conviction of such person, for a violation of this act under this section, has become final, such person shall be sentenced to imprisonment for not more than three years or a fine of not more than twenty five thousand dollars (\$25,000), or both.~~

~~(b) Any person who is an otherwise legitimate producer, manufacturer, or distributor and who fails to register or obtain a license as required by this act shall be guilty of a misdemeanor, and shall, on conviction thereof, be punished only as follows:~~

~~(1) Upon conviction of the first such offense, he shall be sentenced to imprisonment for not more than six months, or fined not exceeding ten thousand dollars (\$10,000), or both.~~

~~(2) Upon conviction of the second and subsequent such offense, he shall be sentenced to imprisonment for not more than two years, or fined not exceeding forty thousand dollars (\$40,000), or both.~~

~~(c) Any person who fails to maintain or permit inspection of records as required by this act or divulges information in violation of this act shall be guilty of a felony, and shall, on conviction thereof, be punished as follows:~~

~~(1) Upon conviction of the first such offense, he shall be sentenced to imprisonment for not more than two years, or fined not exceeding ten thousand dollars (\$10,000), or have his license revoked for not exceeding one year, or any of these.~~

~~(2) Upon conviction of the second and subsequent such offense, he shall be sentenced to imprisonment for not more than~~

~~ten years, or fined not exceeding thirty thousand dollars~~  
~~(\$30,000), or have his license revoked for not more than five~~  
~~years, or any of these.~~

~~(d) Any person, not authorized by law to do so, who~~  
~~acquires, receives, possesses, stores, sells or distributes any~~  
~~controlled paraphernalia shall be guilty of a felony and shall,~~  
~~on conviction thereof, be sentenced to imprisonment for not more~~  
~~than three years or a fine of not more than five thousand~~  
~~dollars (\$5,000), or both.~~

~~(e) It shall be unlawful for any person to obtain or attempt~~  
~~to obtain a controlled dangerous substance or controlled drug~~  
~~by:~~

~~(1) Misrepresentation, deception, or subterfuge, (i) from~~  
~~any person that he believes uses such a substance or drug in~~  
~~research, teaching, or chemical analysis, and who in fact is~~  
~~authorized by law to administer, dispense, or distribute such a~~  
~~substance or drug; or (ii) from any person that he believes is~~  
~~lawfully entitled to possess and distribute a controlled~~  
~~dangerous substance or controlled drug, and who in fact is~~  
~~authorized by law to administer, dispense, or distribute such a~~  
~~substance or drug;~~

~~(2) Use of a prescription that has been forged, or that has~~  
~~been altered by someone other than the prescribing practitioner;~~  
~~or~~

~~(3) Use of a false name or address on a prescription.~~

~~Any person who obtained a controlled drug or controlled~~  
~~dangerous substance by any means of fraud or deceit as herein~~  
~~set forth shall be guilty of a misdemeanor and shall, upon~~  
~~conviction thereof, be punished as follows:~~

~~(1) Upon conviction of the first such offense, he shall be~~



~~sentenced to imprisonment for not more than one year, or fined not exceeding five thousand dollars (\$5,000), or both.~~

~~(2) Upon conviction of the second and subsequent such offense, he shall be sentenced to imprisonment for not more than two years, or fined not exceeding ten thousand dollars (\$10,000), or both.~~

~~(3) Any person who is a drug dependent person and who violates this provision to satisfy his drug dependence, and who is not charged with a trafficking offense involving distribution of a controlled drug or controlled dangerous substance at wholesale or distribution at retail of any controlled drug or dangerous substance as part of an organized professional system, shall be handled only pursuant to the provisions relating to care, treatment and civil commitment.~~

~~(f) It shall be unlawful for any person who is not registered or licensed as required by law to possess a controlled drug or controlled dangerous substance with intent to distribute it or to distribute a controlled drug or controlled dangerous substance in violation of this act and shall, upon conviction thereof, be punished as follows:~~

~~(1) Trafficking in the First Degree. A person who in violation of this act possesses a controlled drug or controlled dangerous substance except marihuana with intent to distribute it or who in violation of this act distributes a controlled drug or controlled dangerous substance except marihuana at wholesale to another distributor shall be guilty of a felony, and shall, on conviction thereof, be punished as follows:~~

~~(i) upon conviction of the first such offense involving a controlled drug or controlled dangerous substance classified in Schedule I or II which is a narcotic drug, such person shall be~~

1 ~~sentenced to imprisonment for not more than twenty years and~~  
2 ~~fined without limitation an amount sufficient to exhaust the~~  
3 ~~assets utilized in and the profits obtained by the illegal~~  
4 ~~activity and upon conviction of the second and subsequent such~~  
5 ~~offense, he shall be sentenced to imprisonment for not more than~~  
6 ~~life, and fined without limitation an amount sufficient to~~  
7 ~~exhaust the assets utilized in and the profits obtained by the~~  
8 ~~illegal activity;~~

9 ~~(ii) upon conviction of the first such offense involving a~~  
10 ~~controlled drug or dangerous substance classified in Schedule I~~  
11 ~~or II which is not a narcotic drug or any controlled drug or~~  
12 ~~controlled dangerous substance classified in Schedule III, such~~  
13 ~~person shall be sentenced to imprisonment for not more than five~~  
14 ~~years, or fined not exceeding fifteen thousand dollars~~  
15 ~~(\$15,000), or both and upon conviction of the second and~~  
16 ~~subsequent such offense, he shall be sentenced to imprisonment~~  
17 ~~for not more than ten years, or fined not exceeding thirty~~  
18 ~~thousand dollars (\$30,000), or both;~~

19 ~~(iii) upon conviction of the first such offense involving a~~  
20 ~~controlled drug or controlled dangerous substance classified in~~  
21 ~~Schedule IV, such person shall be sentenced to imprisonment for~~  
22 ~~not more than three years, or fined not exceeding ten thousand~~  
23 ~~dollars (\$10,000), or both and upon conviction of the second and~~  
24 ~~subsequent such offense, he shall be sentenced to imprisonment~~  
25 ~~of not more than six years, or fined not exceeding twenty~~  
26 ~~thousand dollars (\$20,000), or both;~~

27 ~~(iv) upon conviction of the first such offense involving a~~  
28 ~~controlled drug or controlled dangerous substance classified in~~  
29 ~~Schedule V, such person shall be sentenced to imprisonment of~~  
30 ~~not more than one year, or fined not exceeding five thousand~~

~~dollars (\$5,000), or both and upon conviction of the second and subsequent such offense, he shall be sentenced to imprisonment for not more than two years, or fined not exceeding ten thousand dollars (\$10,000), or both.~~

~~(2) Trafficking in the Second Degree. A person who in violation of this act possesses a controlled drug or controlled dangerous substance except marihuana with intent to distribute it to an ultimate user thereof in violation of this act, or who in violation of this act distributes a controlled drug or controlled dangerous substance except marihuana to an ultimate user thereof, shall be guilty of a felony, and shall, on conviction thereof, be punished as follows:~~

~~(i) upon conviction of the first such offense involving a controlled drug or controlled dangerous substance classified in Schedule I or II which is a narcotic drug, such person shall be sentenced to imprisonment for not more than twenty years, and fined an amount sufficient to exhaust the assets utilized in and the profits obtained by the illegal activity, and upon conviction of the second and subsequent such offense, he shall be sentenced to imprisonment for not more than forty years, and fined an amount sufficient to exhaust the assets utilized in and the profits obtained by the illegal activity;~~

~~(ii) upon conviction of the first such offense involving a controlled drug or controlled dangerous substance classified in Schedule I or II which is not a narcotic drug or any controlled drug or controlled dangerous substance classified in Schedule III, such person shall be sentenced to imprisonment for not more than five years, or fined not exceeding five thousand dollars (\$5,000), or both and upon conviction of the second and subsequent such offense, he shall be sentenced to imprisonment~~

~~for not more than ten years, or fined not exceeding ten thousand dollars (\$10,000), or both;~~

~~(iii) upon conviction of the first such offense involving a controlled drug or controlled dangerous substance classified in Schedule IV, such person shall be sentenced to imprisonment for not more than three years, or fined not exceeding three thousand dollars (\$3,000), or both and upon conviction of the second and subsequent such offense, he shall be sentenced to imprisonment for not more than six years, or fined not exceeding six thousand dollars (\$6,000), or both;~~

~~(iv) upon conviction of the first such offense involving a controlled drug or controlled dangerous substance classified in Schedule V, such person shall be sentenced to imprisonment for not more than one year, or fined not exceeding two thousand dollars (\$2,000), or both, and upon conviction of the second and subsequent such offense, he shall be sentenced to imprisonment for not more than two years, or fined not exceeding three thousand dollars (\$3,000), or both.~~

~~(3) Trafficking in the Third Degree. A person who in violation of this act possesses marihuana with intent to distribute it, or who in violation of this act distributes marihuana, shall be guilty of a felony, and shall, on conviction thereof, be punished as follows:~~

~~(i) upon conviction of the first such offense, he shall be sentenced to imprisonment for not more than ten years, and fined an amount sufficient to exhaust the assets utilized in and the profits obtained by the illegal activity;~~

~~(ii) upon conviction of the second such offense, he shall be sentenced to imprisonment for not more than twenty years, and fined an amount sufficient to exhaust the assets utilized in and~~

1 ~~the profits obtained by the illegal activity.~~

2 ~~(g) Any person who manufactures or distributes a counterfeit~~  
3 ~~drug or substance or who possesses a counterfeit drug or~~  
4 ~~substance with intent to distribute it, knowing it to be a~~  
5 ~~counterfeit drug or substance, or who manufactures or~~  
6 ~~distributes any device intended to reproduce any identifying~~  
7 ~~name or mark upon any drug or substance or container or labeling~~  
8 ~~so as to render such drug or substance a counterfeit drug, shall~~  
9 ~~be guilty of a felony, and shall, upon conviction thereof, be~~  
10 ~~punished as follows:~~

11 ~~(1) Upon conviction of the first such offense involving a~~  
12 ~~counterfeit substance classified in Schedule I or II which is a~~  
13 ~~narcotic drug, such person shall be sentenced to imprisonment~~  
14 ~~for not more than ten years, and fined without limitation in an~~  
15 ~~amount sufficient to exhaust the assets utilized in and the~~  
16 ~~profits obtained by the illegal activity and upon conviction of~~  
17 ~~the second and subsequent such offense, he shall be sentenced to~~  
18 ~~imprisonment for not more than thirty years, and fined without~~  
19 ~~limitation an amount sufficient to exhaust the assets utilized~~  
20 ~~in and the profits obtained by the illegal activity.~~

21 ~~(2) Upon conviction of the first such offense involving a~~  
22 ~~counterfeit substance classified in Schedule I or II which is~~  
23 ~~not a narcotic drug or any counterfeit substance classified in~~  
24 ~~Schedule III, shall be sentenced to imprisonment for not more~~  
25 ~~than five years, or fined not exceeding ten thousand dollars~~  
26 ~~(\$10,000), or both and upon the second and subsequent such~~  
27 ~~offense, he shall be sentenced to imprisonment for not more than~~  
28 ~~ten years, or fined not exceeding twenty thousand dollars~~  
29 ~~(\$20,000), or both.~~

30 ~~(3) Upon conviction of the first such offense involving a~~

~~counterfeit substance classified in Schedule IV, such person shall be sentenced to imprisonment for not more than three years, or fined not exceeding seven thousand five hundred dollars (\$7,500), or both and upon conviction of the second and subsequent such offense, he shall be sentenced to imprisonment for not more than six years, or fined not exceeding fifteen thousand dollars (\$15,000), or both.~~

~~(4) Upon conviction of the first such offense involving a counterfeit substance classified in Schedule V, such person shall be sentenced to imprisonment for not more than one year, or fined not exceeding five thousand dollars (\$5,000), or both and upon conviction of the second and subsequent such offense, he shall be sentenced to imprisonment for not more than two years, or fined not exceeding ten thousand dollars (\$10,000), or both.~~

~~(h) Any person who acquires a controlled drug or controlled dangerous substance in violation of this act with intent to distribute, administer, or dispense it in accordance with this act, or who acquires a controlled drug or controlled dangerous substance in violation of this act and distributes, administers, or dispenses it in accordance with this act, shall be guilty of a felony, and shall, on conviction thereof, be punished only as follows:~~

~~(1) Upon conviction of the first such offense involving a controlled drug or controlled dangerous substance classified in Schedule I or II which is a narcotic drug, such person shall be sentenced to imprisonment for not more than four years, or fined not exceeding twenty thousand dollars (\$20,000), or have his license suspended for not exceeding six months, or any of these and upon conviction of the second and subsequent such offense,~~

~~he shall be sentenced to imprisonment for not more than ten years, or fined not exceeding fifty thousand dollars (\$50,000), or have his license suspended or revoked, or any of these.~~

~~(2) Upon conviction of the first such offense involving a controlled drug or controlled dangerous substance classified in Schedule I or II which is not a narcotic drug and any controlled drug or controlled dangerous substance classified in Schedule III, such person shall be sentenced to imprisonment for not more than three years, or fined not exceeding fifteen thousand dollars (\$15,000), or have his license suspended for not exceeding four months, or any of these and upon conviction of the second and subsequent such offense, he shall be sentenced to imprisonment for not more than eight years, or fined not exceeding thirty thousand dollars (\$30,000), or have his license suspended or revoked, or any of these.~~

~~(3) Upon conviction of the first such offense involving a controlled drug or controlled dangerous substance classified in Schedule IV, such person shall be sentenced to imprisonment for not more than two years, or fined not exceeding ten thousand dollars (\$10,000), or have his license suspended for not exceeding three months, or any of these and upon conviction of the second and subsequent such offense, he shall be sentenced to imprisonment for not more than six years, or fined not exceeding twenty thousand dollars (\$20,000), or have his license suspended or revoked, or any of these.~~

~~(4) Upon conviction of the first such offense involving a controlled drug or controlled dangerous substance classified in Schedule V, such person shall be sentenced to imprisonment for not more than one year, or fined not exceeding five thousand dollars (\$5,000), or have his license suspended for not~~

~~exceeding two months, or any of these and upon conviction of the second and subsequent offense, he shall be sentenced to imprisonment for not more than four years, or fined not exceeding ten thousand dollars (\$10,000), or have his license suspended or revoked, or any of these.~~

~~(i) Any person who prescribes, administers, dispenses, or investigates a controlled drug or controlled dangerous substance in violation of this act shall be guilty of a misdemeanor for the first and second offense and shall be guilty of a felony for the third and subsequent offense and shall, on conviction thereof, be punished as follows:~~

~~(1) Upon conviction of the first and second such offense involving a controlled drug or controlled dangerous substance classified in Schedule I or II which is a narcotic drug, such person shall be sentenced to imprisonment for not more than one year, or fined not more than five thousand dollars (\$5,000), or have his license suspended for not exceeding three months, or any of these and upon conviction of the third and subsequent such offense he shall be sentenced to imprisonment for not more than ten years, or fined not exceeding thirty thousand dollars (\$30,000), or have his license suspended or revoked, or any of these.~~

~~(2) Upon conviction of the first and second such offense involving a controlled drug or controlled dangerous substance classified in Schedule I or II which is not a narcotic drug, and any controlled drug or controlled dangerous substance classified in Schedule III, such person shall be sentenced to imprisonment for not more than six months, or fined not more than three thousand dollars (\$3,000), or have his license suspended for not exceeding two months, or any of these and upon conviction of the~~



~~third and subsequent such offense he shall be sentenced to imprisonment for not more than eight years, or fined not exceeding eighteen thousand dollars (\$18,000), or have his license suspended or revoked, or any of these.~~

~~(3) Upon conviction of the first and second such offense involving a controlled drug or controlled dangerous substance classified in Schedule IV, such person shall be sentenced to imprisonment for not more than three months, or fined not exceeding two thousand dollars (\$2,000), or have his license suspended for not exceeding one month, or any of these and upon conviction of the third and subsequent such offense he shall be sentenced to imprisonment for not more than six years, or fined not exceeding twelve thousand dollars (\$12,000), or have his license suspended or revoked, or any of these.~~

~~(4) Upon conviction of the first and second such offense involving a controlled drug or controlled dangerous substance classified in Schedule V, such person shall be sentenced to imprisonment for not more than two months, or fined not exceeding one thousand dollars (\$1,000), or have his license suspended for not exceeding one month, or any of these and upon conviction of the third and subsequent such offense he shall be sentenced to imprisonment for not more than four years, or fined not exceeding six thousand dollars (\$6,000), or have his license suspended or revoked, or any of these.~~

~~(j) Any person who has possession illegally of any controlled drug or controlled dangerous substance for personal use or distribution not for remuneration shall be guilty of a misdemeanor, and shall, on conviction thereof, be punished only as follows:~~

~~(1) Possession in the First Degree. Any person who in~~

1 ~~violation of this act possesses a controlled drug or controlled~~  
2 ~~dangerous substance except marihuana for personal use, or who in~~  
3 ~~violation of this act possesses a controlled drug or controlled~~  
4 ~~dangerous substance except marihuana with intent to distribute~~  
5 ~~it but not for remuneration or for the purpose of making another~~  
6 ~~dependent upon the drug or substance, or who in violation of~~  
7 ~~this act distributes a controlled drug or controlled dangerous~~  
8 ~~substance except marihuana but not for remuneration or for the~~  
9 ~~purpose of making another dependent upon the drug or substance,~~  
10 ~~shall be admonished by the court about the seriousness of the~~  
11 ~~violation, or required to complete a course on drug abuse~~  
12 ~~prescribed by the council, or imprisoned not exceeding two~~  
13 ~~years, or fined not exceeding ten thousand dollars (\$10,000), or~~  
14 ~~any of these.~~

15 ~~(2) Possession in the Second Degree. Any person who in~~  
16 ~~violation of this act possesses marihuana for personal use, or~~  
17 ~~who in violation of this act possesses marihuana with intent to~~  
18 ~~distribute it but not for remuneration or for the purpose of~~  
19 ~~introducing another to the drug, or who in violation of this act~~  
20 ~~distributes marihuana but not for remuneration or for the~~  
21 ~~purpose of introducing another to the drug shall be admonished~~  
22 ~~by the court about the seriousness of the violation, or required~~  
23 ~~to complete a prescribed course on drug abuse, or imprisonment~~  
24 ~~not exceeding thirty days, or fined not exceeding five hundred~~  
25 ~~dollars (\$500), or any of these.~~

26 SECTION 13. PROHIBITED ACTS; PENALTIES.--(A) THE FOLLOWING <—  
27 ACTS AND THE CAUSING THEREOF WITHIN THE COMMONWEALTH ARE HEREBY  
28 PROHIBITED:

29 (1) THE MANUFACTURE, SALE OR DELIVERY, HOLDING, OFFERING FOR  
30 SALE, OR POSSESSION OF ANY CONTROLLED SUBSTANCE, OTHER DRUG,

1 DEVICE OR COSMETIC THAT IS ADULTERATED OR MISBRANDED.

2 (2) THE ADULTERATION OR MISBRANDING OF ANY CONTROLLED  
3 SUBSTANCE, OTHER DRUG, DEVICE OR COSMETIC.

4 (3) THE DISSEMINATION OR PUBLICATION OF ANY FALSE OR  
5 MATERIALLY MISLEADING ADVERTISEMENT.

6 (4) THE REMOVAL OR DISPOSAL OF A DETAINED OR EMBARGOED  
7 SUBSTANCE OR ARTICLE, WHETHER OR NOT SUCH SUBSTANCE OR ARTICLE  
8 IS IN FACT ADULTERATED OR MISBRANDED.

9 (5) THE ADULTERATION, MUTILATION, DESTRUCTION, OBLITERATION  
10 OR REMOVAL OF THE WHOLE OR ANY PART OF THE LABELING OF, OR THE  
11 DOING OF ANY OTHER ACT WITH RESPECT TO A CONTROLLED SUBSTANCE,  
12 OTHER DRUG, DEVICE OR COSMETIC, IF SUCH ACT IS DONE WHILE SUCH  
13 SUBSTANCE OR ARTICLE IS HELD FOR SALE AND RESULTS IN SUCH  
14 SUBSTANCE OR ARTICLE BEING ADULTERATED OR MISBRANDED.

15 (6) FORGING, COUNTERFEITING, SIMULATING OR FALSELY  
16 REPRESENTING, OR WITHOUT PROPER AUTHORITY USING ANY MARK, STAMP,  
17 TAG, LABEL OR OTHER IDENTIFICATION SYMBOL AUTHORIZED OR REQUIRED  
18 BY REGULATION PROMULGATED UNDER THE PROVISIONS OF THIS ACT.

19 (7) PLACING OR CAUSING TO BE PLACED UPON ANY CONTROLLED  
20 SUBSTANCE, OTHER DRUG, DEVICE OR COSMETIC, OR UPON THE CONTAINER  
21 OF ANY CONTROLLED SUBSTANCE, OTHER DRUG, DEVICE OR COSMETIC,  
22 WITH INTENT TO DEFRAUD, THE TRADEMARK, TRADE NAME OR OTHER  
23 IDENTIFYING MARK, IMPRINT OR SYMBOL OF ANOTHER, OR ANY LIKENESS  
24 OF ANY OF THE FOREGOING.

25 (8) SELLING, DISPENSING, DISPOSING OF OR CAUSING TO BE SOLD,  
26 DISPENSED OR DISPOSED OF, OR KEEPING IN POSSESSION, CONTROL OR  
27 CUSTODY, OR CONCEALING ANY CONTROLLED SUBSTANCE, OTHER DRUG,  
28 DEVICE OR COSMETIC OR ANY CONTAINER OF ANY DRUG, DEVICE OR  
29 COSMETIC WITH KNOWLEDGE THAT THE TRADEMARK, TRADE NAME OR OTHER  
30 IDENTIFYING MARK, IMPRINT OR SYMBOL OF ANOTHER, OR ANY LIKENESS

1 OF ANY OF THE FOREGOING, HAS BEEN PLACED THEREON IN A MANNER  
2 PROHIBITED BY CLAUSE (7) HEREOF.

3 (9) MAKING, SELLING, DISPOSING OF OR CAUSING TO BE MADE,  
4 SOLD, OR DISPOSED OF, OR KEEPING IN POSSESSION, CONTROL OR  
5 CUSTODY, OR CONCEALING WITH INTENT TO DEFRAUD, ANY PUNCH, DIE,  
6 PLATE, STONE OR OTHER THING DESIGNED TO PRINT, IMPRINT OR  
7 REPRODUCE THE TRADEMARK, TRADE NAME OR OTHER IDENTIFYING MARK,  
8 IMPRINT OR SYMBOL OF ANOTHER OR ANY LIKENESS OF ANY OF THE  
9 FOREGOING UPON ANY CONTROLLED SUBSTANCE, OTHER DRUG, DEVICE OR  
10 COSMETIC OR CONTAINER THEREOF.

11 (10) THE SALE AT RETAIL OF A NONPROPRIETARY DRUG EXCEPT BY A  
12 REGISTERED PHARMACIST IN A LICENSED PHARMACY OR BY A  
13 PRACTITIONER.

14 (11) THE OPERATION OF A DRUG MANUFACTURING, DISTRIBUTING OR  
15 RETAILING ESTABLISHMENT, EXCEPT BY REGISTERED PHARMACISTS IN A  
16 LICENSED PHARMACY, WITHOUT CONFORMING WITH SUCH STANDARDS  
17 RESPECTING SANITATION, PERSONNEL, MATERIALS, EQUIPMENT AND  
18 SUPPLIES AS THE SECRETARY, AFTER CONSULTATION WITH THE BOARD,  
19 MAY ESTABLISH BY REGULATION FOR THE PROTECTION OF THE PUBLIC  
20 HEALTH AND SAFETY.

21 (12) THE ACQUISITION OR OBTAINING OF POSSESSION OF A  
22 CONTROLLED SUBSTANCE BY MISREPRESENTATION, FRAUD, FORGERY,  
23 DECEPTION OR SUBTERFUGE.

24 (13) THE SALE, DISPENSING, DISTRIBUTION, PRESCRIPTION OR  
25 GIFT BY ANY PRACTITIONER OTHERWISE AUTHORIZED BY LAW SO TO DO OF  
26 ANY CONTROLLED SUBSTANCE TO ANY PERSON KNOWN TO SUCH  
27 PRACTITIONER TO BE OR WHOM SUCH PRACTITIONER HAS REASON TO KNOW  
28 IS A DRUG DEPENDENT PERSON, UNLESS SAID DRUG IS PRESCRIBED,  
29 ADMINISTERED, DISPENSED OR GIVEN, FOR THE CURE OR TREATMENT OF  
30 SOME MALADY OTHER THAN DRUG DEPENDENCY, EXCEPT THAT A CONTROLLED

1 SUBSTANCE, INCLUDING BUT NOT LIMITED TO, METHADONE MAY BE  
2 PERMITTED FOR THE TREATMENT OF DRUG DEPENDENCY PURSUANT TO  
3 REGULATIONS OF THE SECRETARY PROVIDING FOR SUCH USE. THIS CLAUSE  
4 SHALL NOT PROHIBIT ANY PRACTITIONER FROM PRESCRIBING,  
5 DISTRIBUTING OR DISPENSING ANY CONTROLLED SUBSTANCE ON A SHORT  
6 TERM BASIS PENDING CONFIRMED ADMISSION OF THE PATIENT TO A  
7 HOSPITAL OR REHABILITATION CENTER.

8 (14) THE ADMINISTRATION, DISPENSING, DELIVERY, GIFT OR  
9 PRESCRIPTION BY ANY PRACTITIONER OTHERWISE AUTHORIZED BY LAW SO  
10 TO DO OF ANY CONTROLLED SUBSTANCE EXCEPT AFTER A PHYSICAL OR  
11 VISUAL EXAMINATION OF THE PERSON OR ANIMAL FOR WHOM SAID DRUGS  
12 ARE INTENDED, SAID EXAMINATION TO BE MADE AT THE TIME SAID  
13 PRESCRIPTION ORDER IS ISSUED OR AT THE TIME SAID DRUG IS  
14 ADMINISTERED, DISPENSED, GIVEN AWAY OR DELIVERED BY SAID  
15 PRACTITIONER, OR EXCEPT WHERE THE PRACTITIONER IS SATISFIED BY  
16 EVIDENCE THAT THE PERSON IS NOT A DRUG DEPENDENT PERSON.

17 (15) THE SALE AT RETAIL OR DISPENSING OF ANY CONTROLLED  
18 SUBSTANCE LISTED IN SCHEDULES II, III AND IV TO ANY PERSON,  
19 EXCEPT TO ONE AUTHORIZED BY LAW TO SELL, DISPENSE, PRESCRIBE OR  
20 POSSESS SUCH SUBSTANCES, UNLESS UPON THE WRITTEN OR ORAL  
21 PRESCRIPTION OF A PERSON LICENSED BY LAW TO PRESCRIBE SUCH DRUG  
22 AND UNLESS COMPOUNDED OR DISPENSED BY A REGISTERED PHARMACIST OR  
23 PHARMACY INTERN UNDER THE IMMEDIATE PERSONAL SUPERVISION OF A  
24 REGISTERED PHARMACIST, OR THE REFILLING OF A WRITTEN OR ORAL  
25 PRESCRIPTION ORDER FOR A DRUG, UNLESS SUCH REFILLING IS  
26 AUTHORIZED BY THE PRESCRIBER EITHER IN THE ORIGINAL WRITTEN  
27 PRESCRIPTION ORDER OR BY WRITTEN CONFIRMATION OF THE ORIGINAL  
28 ORAL PRESCRIPTION ORDER. THE PROVISIONS OF THIS SUBSECTION SHALL  
29 NOT APPLY TO A PRACTITIONER LICENSED TO PRESCRIBE OR DISPENSE  
30 SUCH DRUGS, WHO KEEPS A RECORD OF THE AMOUNT OF SUCH DRUGS

1 PURCHASED AND A DISPENSING RECORD SHOWING THE DATE, NAME, AND  
2 QUANTITY OF THE DRUG DISPENSED AND THE NAME AND ADDRESS OF THE  
3 PATIENT, AS REQUIRED BY THIS ACT.

4 (16) KNOWINGLY OR INTENTIONALLY POSSESSING A CONTROLLED  
5 SUBSTANCE UNLESS THE SUBSTANCE WAS OBTAINED DIRECTLY FROM, OR  
6 PURSUANT TO, A VALID PRESCRIPTION ORDER OR ORDER OF A  
7 PRACTITIONER, OR EXCEPT AS OTHERWISE AUTHORIZED BY THIS ACT.

8 (17) THE WILFUL DISPENSING OF A CONTROLLED SUBSTANCE BY A  
9 PRACTITIONER OTHERWISE AUTHORIZED BY LAW SO TO DO WITHOUT  
10 AFFIXING TO THE CONTAINER IN WHICH THE DRUG IS SOLD OR DISPENSED  
11 A LABEL BEARING THE NAME AND ADDRESS OF THE PRACTITIONER, THE  
12 DATE DISPENSED, THE NAME OF THE PATIENT AND THE DIRECTIONS FOR  
13 THE USE OF THE DRUG BY THE PATIENT.

14 (18) THE SELLING BY A PHARMACY OR DISTRIBUTOR OF ANY  
15 CONTROLLED SUBSTANCE OR OTHER DRUG UNLESS THE CONTAINER BEARS A  
16 LABEL, SECURELY ATTACHED THERETO, STATING THE SPECIFIC NAME OF  
17 THE DRUG AND THE PROPORTION OR AMOUNT THEREOF.

18 (19) THE INTENTIONAL PURCHASE OR KNOWING RECEIPT IN COMMERCE  
19 BY ANY PERSON OF ANY CONTROLLED SUBSTANCE, OTHER DRUG OR DEVICE  
20 FROM ANY PERSON NOT AUTHORIZED BY LAW TO SELL, DISTRIBUTE,  
21 DISPENSE OR OTHERWISE DEAL IN SUCH CONTROLLED SUBSTANCE, OTHER  
22 DRUG OR DEVICE.

23 (20) THE USING BY ANY PERSON TO HIS OWN ADVANTAGE OR  
24 REVEALING OTHER THAN TO THE SECRETARY OR OFFICERS OR EMPLOYES OF  
25 THE DEPARTMENT OR TO THE COUNCIL OR TO THE BOARD OR TO COURTS OR  
26 A HEARING EXAMINER WHEN RELEVANT TO PROCEEDINGS UNDER THIS ACT  
27 ANY INFORMATION ACQUIRED UNDER AUTHORITY OF THIS ACT CONCERNING  
28 ANY METHOD OR PROCESS WHICH AS A TRADE SECRET IS ENTITLED TO  
29 PROTECTION. SUCH INFORMATION OBTAINED UNDER THE AUTHORITY OF  
30 THIS ACT SHALL NOT BE ADMITTED IN EVIDENCE IN ANY PROCEEDING

1 BEFORE ANY COURT OF THE COMMONWEALTH EXCEPT IN PROCEEDINGS UNDER  
2 THIS ACT.

3 (21) THE REFUSAL OR FAILURE TO MAKE, KEEP OR FURNISH ANY  
4 RECORD, NOTIFICATION, ORDER FORM, STATEMENT, INVOICE OR  
5 INFORMATION REQUIRED UNDER THIS ACT.

6 (22) THE REFUSAL OF ENTRY INTO ANY PREMISES FOR ANY  
7 INSPECTION AUTHORIZED BY THIS ACT.

8 (23) THE UNAUTHORIZED REMOVING, BREAKING, INJURING, OR  
9 DEFACING A SEAL PLACED UPON EMBARGOED SUBSTANCES OR THE REMOVAL  
10 OR DISPOSAL OF SUBSTANCES SO PLACED UNDER SEAL.

11 (24) THE FAILURE BY A MANUFACTURER OR DISTRIBUTOR TO  
12 REGISTER OR OBTAIN A LICENSE AS REQUIRED BY THIS ACT.

13 (25) THE MANUFACTURE OF A CONTROLLED SUBSTANCE BY A  
14 REGISTRANT WHO KNOWS OR WHO HAS REASON TO KNOW, THE  
15 MANUFACTURING IS NOT AUTHORIZED BY HIS REGISTRATION, OR WHO  
16 KNOWINGLY DISTRIBUTES A CONTROLLED SUBSTANCE NOT AUTHORIZED BY  
17 HIS REGISTRATION TO ANOTHER REGISTRANT OR OTHER AUTHORIZED  
18 PERSON.

19 (26) THE KNOWING DISTRIBUTION BY A REGISTRANT OF A  
20 CONTROLLED SUBSTANCE CLASSIFIED IN SCHEDULES I OR II, EXCEPT  
21 PURSUANT TO AN ORDER FORM AS REQUIRED BY THIS ACT.

22 (27) THE USE IN THE COURSE OF THE MANUFACTURE OR  
23 DISTRIBUTION OF A CONTROLLED SUBSTANCE OF A REGISTRATION NUMBER  
24 WHICH IS FICTITIOUS, REVOKED, SUSPENDED, OR ISSUED TO ANOTHER  
25 PERSON.

26 (28) THE FURNISHING OF FALSE OR FRAUDULENT MATERIAL  
27 INFORMATION IN, OR OMISSION OF ANY MATERIAL INFORMATION FROM ANY  
28 APPLICATION, REPORT, OR OTHER DOCUMENT REQUIRED TO BE KEPT OR  
29 FILED UNDER THIS ACT, OR ANY RECORD REQUIRED TO BE KEPT BY THIS  
30 ACT.

1       (29) THE INTENTIONAL MAKING, DISTRIBUTING, OR POSSESSING OF  
2 ANY PUNCH, DIE, PLATE, STONE, OR OTHER THING DESIGNED TO PRINT,  
3 IMPRINT, OR REPRODUCE THE TRADEMARK, TRADE NAME, OR OTHER  
4 IDENTIFYING MARK, IMPRINT, OR SYMBOL OF ANOTHER OR ANY LIKENESS  
5 OF ANY OF THE FOREGOING UPON ANY DRUG OR CONTAINER OR LABELING  
6 THEREOF SO AS TO RENDER THE DRUG A COUNTERFEIT SUBSTANCE.

7       (30) EXCEPT AS AUTHORIZED BY THIS ACT, THE MANUFACTURE,  
8 DELIVERY, OR POSSESSION WITH INTENT TO MANUFACTURE OR DELIVER, A  
9 CONTROLLED SUBSTANCE, OR KNOWINGLY CREATING, DELIVERING OR  
10 POSSESSING WITH INTENT TO DELIVER, A COUNTERFEIT CONTROLLED  
11 SUBSTANCE.

12       (31) NOTWITHSTANDING OTHER SUBSECTIONS OF THIS SECTION, (I)  
13 THE POSSESSION OF A SMALL AMOUNT OF MARIHUANA ONLY FOR PERSONAL  
14 USE; (II) THE POSSESSION OF A SMALL AMOUNT OF MARIHUANA WITH THE  
15 INTENT TO DISTRIBUTE IT BUT NOT TO SELL IT; OR (III) THE  
16 DISTRIBUTION OF A SMALL AMOUNT OF MARIHUANA BUT NOT TO SELL IT.

17       FOR PURPOSES OF THIS SUBSECTION, THIRTY (30) GRAMS OR LESS OF  
18 MARIHUANA OR EIGHT (8) GRAMS OF HASHISH SHALL BE CONSIDERED A  
19 SMALL AMOUNT OF MARIHUANA.

20       (B) ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF CLAUSES  
21 (1) THROUGH (20) OF SUBSECTION (A) SHALL BE GUILTY OF A  
22 MISDEMEANOR, AND EXCEPT FOR CLAUSES (4), (6), (7), (8), (9) AND  
23 (19) SHALL, ON CONVICTION THEREOF, BE SENTENCED TO IMPRISONMENT  
24 NOT EXCEEDING ONE YEAR OR TO PAY A FINE NOT EXCEEDING FIVE  
25 THOUSAND DOLLARS (\$5,000), OR BOTH AND FOR CLAUSES (4), (6),  
26 (7), (8), (9) AND (19) SHALL, ON CONVICTION THEREOF, BE  
27 SENTENCED TO IMPRISONMENT NOT EXCEEDING THREE YEARS OR TO PAY A  
28 FINE NOT EXCEEDING FIVE THOUSAND DOLLARS (\$5,000), OR BOTH; BUT,  
29 IF THE VIOLATION IS COMMITTED AFTER A PRIOR CONVICTION OF SUCH  
30 PERSON FOR A VIOLATION OF THIS ACT UNDER THIS SECTION HAS BECOME



1 FINAL, SUCH PERSON SHALL BE SENTENCED TO IMPRISONMENT NOT  
2 EXCEEDING THREE YEARS OR TO PAY A FINE NOT EXCEEDING TWENTY-FIVE  
3 THOUSAND DOLLARS (\$25,000), OR BOTH.

4 (C) ANY PERSON WHO VIOLATES THE PROVISIONS OF CLAUSE (24) OF  
5 SUBSECTION (A) SHALL BE GUILTY OF A MISDEMEANOR, AND SHALL, ON  
6 CONVICTION THEREOF, BE PUNISHED ONLY AS FOLLOWS:

7 (1) UPON CONVICTION OF THE FIRST SUCH OFFENSE, HE SHALL BE  
8 SENTENCED TO IMPRISONMENT NOT EXCEEDING SIX MONTHS, OR TO PAY A  
9 FINE NOT EXCEEDING TEN THOUSAND DOLLARS (\$10,000), OR BOTH.

10 (2) UPON CONVICTION OF THE SECOND AND SUBSEQUENT OFFENSE, HE  
11 SHALL BE SENTENCED TO IMPRISONMENT NOT EXCEEDING TWO YEARS, OR  
12 TO PAY A FINE NOT EXCEEDING TWENTY-FIVE THOUSAND DOLLARS  
13 (\$25,000), OR BOTH.

14 (D) ANY PERSON WHO KNOWINGLY OR INTENTIONALLY VIOLATES ANY  
15 OF CLAUSES (21) THROUGH (23) OF SUBSECTION (A) IS GUILTY OF A  
16 MISDEMEANOR AND UPON CONVICTION THEREOF SHALL BE SENTENCED TO  
17 IMPRISONMENT NOT EXCEEDING ONE YEAR, OR TO PAY A FINE NOT  
18 EXCEEDING FIFTEEN THOUSAND DOLLARS (\$15,000), OR BOTH.

19 (E) ANY PERSON WHO VIOLATES CLAUSES (25) THROUGH (29) OF  
20 SUBSECTION (A) IS GUILTY OF A MISDEMEANOR AND UPON CONVICTION  
21 SHALL BE SENTENCED TO IMPRISONMENT NOT EXCEEDING THREE YEARS, OR  
22 TO PAY A FINE NOT EXCEEDING TWENTY-FIVE THOUSAND DOLLARS  
23 (\$25,000), OR BOTH.

24 (F) ANY PERSON WHO VIOLATES CLAUSE (30) OF SUBSECTION (A)  
25 WITH RESPECT TO:

26 (1) A CONTROLLED SUBSTANCE OR COUNTERFEIT SUBSTANCE  
27 CLASSIFIED IN SCHEDULE I OR II WHICH IS A NARCOTIC DRUG, IS  
28 GUILTY OF A FELONY AND UPON CONVICTION THEREOF SHALL BE  
29 SENTENCED TO IMPRISONMENT NOT EXCEEDING FIFTEEN YEARS, OR TO PAY  
30 A FINE NOT EXCEEDING TWO HUNDRED FIFTY THOUSAND DOLLARS

1 (\$250,000), OR BOTH.

2 (2) ANY OTHER CONTROLLED SUBSTANCE OR COUNTERFEIT SUBSTANCE  
3 CLASSIFIED IN SCHEDULE I, II, OR III, IS GUILTY OF A FELONY AND  
4 UPON CONVICTION THEREOF SHALL BE SENTENCED TO IMPRISONMENT NOT  
5 EXCEEDING FIVE YEARS, OR TO PAY A FINE NOT EXCEEDING FIFTEEN  
6 THOUSAND DOLLARS (\$15,000), OR BOTH.

7 (3) A CONTROLLED SUBSTANCE OR COUNTERFEIT SUBSTANCE  
8 CLASSIFIED IN SCHEDULE IV, IS GUILTY OF A FELONY AND UPON  
9 CONVICTION THEREOF SHALL BE SENTENCED TO IMPRISONMENT NOT  
10 EXCEEDING THREE YEARS, OR TO PAY A FINE NOT EXCEEDING TEN  
11 THOUSAND DOLLARS (\$10,000), OR BOTH.

12 (4) A CONTROLLED SUBSTANCE OR COUNTERFEIT SUBSTANCE  
13 CLASSIFIED IN SCHEDULE V, IS GUILTY OF A MISDEMEANOR AND UPON  
14 CONVICTION THEREOF SHALL BE SENTENCED TO IMPRISONMENT NOT  
15 EXCEEDING ONE YEAR, OR TO PAY A FINE NOT EXCEEDING FIVE THOUSAND  
16 DOLLARS (\$5,000), OR BOTH.

17 (G) ANY PERSON WHO VIOLATES CLAUSE (31) OF SUBSECTION (A) IS  
18 GUILTY OF A MISDEMEANOR AND UPON CONVICTION THEREOF SHALL BE  
19 SENTENCED TO IMPRISONMENT NOT EXCEEDING THIRTY DAYS, OR TO PAY A  
20 FINE NOT EXCEEDING FIVE HUNDRED DOLLARS (\$500), OR BOTH.

21 ~~Section 15. Additional Penalties.~~ Any (H) ANY penalty <—  
22 imposed for violation of this act shall be in addition to, and  
23 not in lieu of, any civil or administrative penalty or sanction  
24 authorized by law.

25 ~~Section 16.~~ 14. Distribution to Persons Under Age <—  
26 Eighteen.--Any person who is at least ~~eighteen~~ TWENTY-ONE years <—  
27 of age who violates this act by distributing a controlled  
28 ~~dangerous~~ substance listed in Schedules I ~~or II which is a~~ <—  
29 ~~narcotic drug~~ THROUGH V to a person under eighteen years of age <—  
30 who is at least ~~three~~ FIVE years his junior is punishable by a <—

1 term of imprisonment up to twice that otherwise authorized by  
2 subsection ~~(f)~~ (B) of section ~~14~~ 13 of this act, in addition to <—  
3 any fine authorized by this act. ~~Any person who is at least~~ <—  
4 ~~eighteen years of age who violates this act by distributing any~~  
5 ~~other controlled drug or controlled dangerous substance listed~~  
6 ~~in Schedules I, II, III, IV and V to a person under eighteen~~  
7 ~~years of age who is at least three years his junior is~~  
8 ~~punishable by a term of imprisonment up to twice that authorized~~  
9 ~~by subsection (f) of section 14 of this act, in addition to any~~  
10 ~~fine authorized by this act. Imposition or execution of such~~  
11 ~~sentence shall not be suspended and probation shall not be~~  
12 ~~granted.~~

13 SECTION 15. SECOND OR SUBSEQUENT OFFENSE.--(A) ANY PERSON <—  
14 CONVICTED OF A SECOND OR SUBSEQUENT OFFENSE UNDER CLAUSE (30) OF  
15 SUBSECTION (A) OF SECTION 13 OF THIS ACT OR OF A SIMILAR OFFENSE  
16 UNDER ANY STATUTE OF THE UNITED STATES OR OF ANY STATE PRIOR TO  
17 THE COMMISSION OF THE SECOND OFFENSE MAY BE IMPRISONED FOR A  
18 TERM UP TO TWICE THE TERM OTHERWISE AUTHORIZED, FINED AN AMOUNT  
19 UP TO TWICE THAT OTHERWISE AUTHORIZED, OR BOTH.

20 (B) FOR PURPOSES OF THIS SECTION, AN OFFENSE IS CONSIDERED A  
21 SECOND OR SUBSEQUENT OFFENSE, IF, PRIOR TO THE COMMISSION OF THE  
22 SECOND OFFENSE, THE OFFENDER HAS AT ANY TIME BEEN CONVICTED  
23 UNDER THIS ACT OR UNDER ANY STATUTE OF THE UNITED STATES OR OF  
24 ANY STATE RELATING TO CONTROLLED SUBSTANCES.

25 Section ~~17.~~ 16. Enforcement Provisions.--The following <—  
26 guidelines shall be applicable in the enforcement of any  
27 penalties imposed by this act:

28 (1) No publisher, radio broadcast licensee, or agency or  
29 medium for the dissemination of an advertisement, except the  
30 manufacturer, distributor or seller of the article to which a

1 false advertisement relates, shall be liable under section 14 12 <—  
2 of this act by reason of the dissemination by him of such false  
3 advertisement unless he has refused on the request of the  
4 secretary to furnish the secretary with the name and post office  
5 address of the manufacturer, distributor, seller or advertising  
6 agency who causes him to disseminate such advertisement or  
7 unless he publishes such advertisement knowing or having good  
8 cause to know that it is false or otherwise in violation of the  
9 law.

10 (2) For purposes of this section, any adjudication of <—  
11 ~~violation or conviction~~ under any Federal or State law ~~or of any~~ <—  
12 ~~ordinance of any political subdivision~~ relating to any  
13 controlled ~~drug or substance~~ SUBSTANCE OR OTHER DRUG, other than <—  
14 a juvenile violation, shall constitute a prior offense if it  
15 related to the type of conduct against which a subsequent  
16 offense is directed.

17 (3) Any penalty relating to license OR REGISTRATION <—  
18 suspension or revocation shall be executed by the appropriate  
19 licensing OR REGISTRATION agency upon receipt of a court order <—  
20 setting forth the penalty.

21 ~~(4) No person shall be convicted of an offense under section~~ <—  
22 ~~14 of this act unless he knew with respect to each element of~~  
23 ~~the offense that he was engaged in the act or omission~~  
24 ~~prescribed, but knowledge that the act or omission constituted a~~  
25 ~~civil or criminal offense shall not be required for conviction.~~

26 ~~(5) Imprisonment may be imposed for failure to pay all or~~  
27 ~~any part of a fine imposed under this section only when the~~  
28 ~~offender does not show that such failure is caused by indigence~~  
29 ~~or a lack of sufficient funds.~~

30 ~~(6) All fines collected under this section shall be utilized~~

1 ~~for the treatment and rehabilitation services established by~~  
2 ~~law.~~

3 ~~(7)~~ (4) The probation or parole or other conditional release <—  
4 OR DISCHARGE of any ~~drug abuser or drug dependent~~ person <—  
5 convicted of an offense under this act or of any other offense  
6 may be conditioned on the person's agreement to periodic ~~urine~~ <—  
7 ~~analyses.~~ Neither a URINALYSES OR OTHER REASONABLE MEANS OF <—  
8 DETECTION. A relapse into drug abuse one or more times or the  
9 failure to conform to a set schedule for rehabilitation, or  
10 both, ~~shall be sufficient in themselves to~~ SHALL NOT require <—  
11 that his status be revoked or treatment denied.

12 ~~(8)~~ The court without a jury shall hold a full and fair <—  
13 hearing for the purpose of setting the amount of any fine  
14 pursuant to this section, during which the district attorney and  
15 the defendant may introduce evidence. The defendant shall be  
16 permitted to cross examine any adverse witness or rebut any  
17 adverse evidence. The amount of any fine set by the court shall  
18 be supported by substantial evidence.

19 ~~(9)~~ SECTION 17. PROBATION WITHOUT VERDICT.--A person may be <—  
20 entitled to probation without verdict under the following  
21 circumstances:

22 ~~(i)~~ (1) A person who has not previously been convicted of an <—  
23 offense relating to a controlled drug or controlled dangerous <—  
24 substance under any law of this Commonwealth, UNDER THIS ACT OR <—  
25 UNDER A SIMILAR ACT OF the United States, or any other state,  
26 ~~shall be~~ IS eligible for probation without verdict if he pleads <—  
27 nolo contendere or guilty to, or is found guilty of, any  
28 NONVIOLENT offense under this act. The court may, without <—  
29 entering a judgment, and with the consent of such person, defer  
30 further proceedings and place him on probation for a specific

1 time period NOT TO EXCEED THE MAXIMUM FOR THE OFFENSE upon such <—  
2 reasonable terms and conditions as it may require. Probation <—  
3 ~~without verdict shall not be available to any such person who is~~  
4 ~~charged with a trafficking offense involving distribution of a~~  
5 ~~controlled drug or controlled dangerous substance at wholesale~~  
6 ~~or distribution at retail of any controlled drug or controlled~~  
7 ~~dangerous substance as part of an organized professional system.~~

8 (ii) (2) Upon violation of a term or condition of probation, <—  
9 the court may enter a judgment and proceed as in any criminal  
10 case, or may continue the probation without verdict.

11 (iii) (3) Upon fulfillment of the terms and conditions of <—  
12 probation, the court shall discharge such person and dismiss the  
13 proceedings against him. Discharge and dismissal shall be  
14 without adjudication of guilt and shall not constitute a  
15 conviction for any purpose whatever, INCLUDING THE PENALTIES <—  
16 IMPOSED FOR SECOND OR SUBSEQUENT CONVICTIONS: Provided, That  
17 probation without verdict shall be available to any person only  
18 once: AND FURTHER PROVIDED, THAT NOTWITHSTANDING ANY OTHER <—  
19 PROVISION OF THIS ACT, THE PROSECUTING ATTORNEY OR THE COURT MAY  
20 KEEP A LIST OF THOSE PERSONS PLACED ON PROBATION WITHOUT  
21 VERDICT, WHICH LIST MAY ONLY BE USED TO DETERMINE THE  
22 ELIGIBILITY OF PERSONS FOR PROBATION WITHOUT VERDICT.

23 SECTION 18. DISPOSITION IN LIEU OF TRIAL.--(A) IF A PERSON  
24 CHARGED WITH A NONVIOLENT CRIME CLAIMS TO BE DRUG DEPENDENT OR A  
25 DRUG ABUSER AND PRIOR TO TRIAL HE REQUESTS APPROPRIATE  
26 TREATMENT, INCLUDING BUT NOT LIMITED TO, ADMISSION OR COMMITMENT  
27 UNDER THE MENTAL HEALTH AND MENTAL RETARDATION ACT OF 1966 IN  
28 LIEU OF CRIMINAL PROSECUTION, A PHYSICIAN EXPERIENCED OR TRAINED  
29 IN THE FIELD OF DRUG DEPENDENCY OR DRUG ABUSE SHALL BE APPOINTED  
30 BY THE COURT TO EXAMINE, IF NECESSARY, AND TO REVIEW THE

1 ACCUSED'S RECORD AND ADVISE THE GOVERNMENT ATTORNEY, THE ACCUSED  
2 AND THE COURT IN WRITING SETTING FORTH THAT FOR THE TREATMENT  
3 AND REHABILITATION OF THE ACCUSED IT WOULD BE PREFERABLE FOR THE  
4 CRIMINAL CHARGES TO BE HELD IN ABEYANCE OR WITHDRAWN IN ORDER TO  
5 INSTITUTE TREATMENT FOR DRUG DEPENDENCE OR FOR THE CRIMINAL  
6 CHARGES TO BE PROSECUTED. THE GOVERNMENT ATTORNEY SHALL EXERCISE  
7 HIS DISCRETION WHETHER OR NOT TO ACCEPT THE PHYSICIAN'S  
8 RECOMMENDATION.

9 (B) IN THE EVENT THAT HE DOES NOT ACCEPT THE PHYSICIAN'S  
10 RECOMMENDATION HE SHALL STATE IN WRITING AND FURNISH THE  
11 DEFENDANT A COPY OF HIS DECISION AND THE REASONS THEREFOR.

12 (C) IF THE GOVERNMENT ATTORNEY ACCEPTS THE PHYSICIAN'S  
13 ADVICE TO HOLD IN ABEYANCE, HE SHALL ARRANGE FOR A HEARING  
14 BEFORE THE APPROPRIATE COURT TO HOLD IN ABEYANCE THE CRIMINAL  
15 PROSECUTION. THE COURT, UPON ITS APPROVAL, SHALL PROCEED TO MAKE  
16 APPROPRIATE ARRANGEMENTS FOR TREATMENT.

17 (D) THE GOVERNMENT ATTORNEY, UPON HIS OWN APPLICATION, MAY  
18 INSTITUTE PROCEEDINGS FOR APPROPRIATE TREATMENT, INCLUDING BUT  
19 NOT LIMITED TO, COMMITMENT PURSUANT TO THE MENTAL HEALTH AND  
20 MENTAL RETARDATION ACT OF 1966.

21 (E) A CRIMINAL CHARGE MAY BE HELD IN ABEYANCE PURSUANT TO  
22 THIS SECTION FOR NO LONGER THAN THE LESSER OF EITHER (I) THE  
23 APPROPRIATE STATUTE OF LIMITATIONS OR (II) THE MAXIMUM TERM THAT  
24 COULD BE IMPOSED FOR THE OFFENSE CHARGED. AT THE EXPIRATION OF  
25 SUCH PERIOD, THE CRIMINAL CHARGE SHALL BE AUTOMATICALLY  
26 DISMISSED. A CRIMINAL CHARGE MAY NOT BE PROSECUTED EXCEPT BY  
27 ORDER OF COURT SO LONG AS THE MEDICAL DIRECTOR OF THE TREATMENT  
28 FACILITY CERTIFIES THAT THE ACCUSED IS COOPERATING IN A  
29 PRESCRIBED TREATMENT PROGRAM AND IS BENEFITING FROM TREATMENT.

30 (F) IF, AFTER CONVICTION, THE DEFENDANT REQUESTS PROBATION

1 WITH TREATMENT OR CIVIL COMMITMENT FOR TREATMENT IN LIEU OF  
2 CRIMINAL PUNISHMENT THE COURT MAY APPOINT A QUALIFIED PHYSICIAN  
3 TO ADVISE THE COURT IN WRITING WHETHER IT WOULD BE PREFERABLE  
4 FOR THE PURPOSES OF TREATMENT AND REHABILITATION FOR HIM TO  
5 RECEIVE A SUSPENDED SENTENCE AND PROBATION ON THE CONDITION THAT  
6 HE UNDERGO EDUCATION AND TREATMENT FOR DRUG ABUSE AND DRUG  
7 DEPENDENCY, OR TO BE COMMITTED PURSUANT TO THE MENTAL HEALTH AND  
8 MENTAL RETARDATION ACT OF 1966 FOR TREATMENT IN LIEU OF CRIMINAL  
9 PUNISHMENT, OR TO RECEIVE CRIMINAL INCARCERATION. A COPY OF THE  
10 PHYSICIAN'S REPORT SHALL BE FURNISHED THE COURT, THE DEFENDANT  
11 AND THE GOVERNMENT ATTORNEY. THE COURT SHALL EXERCISE ITS  
12 DISCRETION WHETHER TO ACCEPT THE PHYSICIAN'S ADVICE.

13 (G) DISPOSITION IN LIEU OF TRIAL AS PROVIDED IN THIS SECTION  
14 SHALL BE AVAILABLE TO ANY PERSON ONLY ONCE.

15 SECTION 19. EXPUNGING CRIMINAL RECORDS.--(A) ANY RECORDS OF  
16 ARREST OR PROSECUTION OR BOTH FOR A CRIMINAL OFFENSE UNDER THIS  
17 ACT OR UNDER THE PROVISIONS PREVIOUSLY GOVERNING CONTROLLED  
18 SUBSTANCES IN THE COMMONWEALTH OF PENNSYLVANIA OR ANY POLITICAL  
19 SUBDIVISION THEREOF SHALL BE PROMPTLY EXPUNGED FROM THE OFFICIAL  
20 AND UNOFFICIAL ARREST AND OTHER CRIMINAL RECORDS, FILES AND  
21 OTHER DOCUMENTS PERTAINING TO THE PARTICULAR ARREST OR  
22 PROSECUTION OR BOTH WHEN THE CHARGES ARE WITHDRAWN OR DISMISSED  
23 OR THE PERSON IS ACQUITTED OF THE CHARGES: PROVIDED THAT SUCH  
24 EXPUNGMENT SHALL BE AVAILABLE AS A MATTER OF RIGHT TO ANY PERSON  
25 ONLY ONCE. WITHIN FIVE DAYS AFTER SUCH WITHDRAWAL, DISMISSAL OR  
26 ACQUITTAL THE COURT, IN WRITING, SHALL ORDER THE APPROPRIATE  
27 KEEPERS OF CRIMINAL RECORDS (I) TO EXPUNGE AND DESTROY THE  
28 OFFICIAL AND UNOFFICIAL ARREST AND OTHER CRIMINAL RECORDS, FILES  
29 AND OTHER DOCUMENTS PERTAINING TO THE ARREST OR PROSECUTION OR  
30 BOTH, TO REQUEST IN SO FAR AS THEY ARE ABLE THE RETURN OF SUCH



1 RECORDS AS THEY HAVE MADE AVAILABLE TO FEDERAL AND OTHER STATE  
2 AGENCIES, AND TO DESTROY SUCH RECORDS ON RECEIPT THEREOF; AND  
3 (II) TO FILE WITH THE COURT WITHIN THIRTY DAYS AN AFFIDAVIT THAT  
4 SUCH RECORDS HAVE BEEN EXPUNGED AND DESTROYED, TOGETHER WITH THE  
5 COURT'S EXPUNCTION ORDER AND TO RETAIN NO COPIES THEREOF. UPON  
6 RECEIPT OF SUCH AFFIDAVIT, THE COURT SHALL SEAL THE SAME  
7 TOGETHER WITH THE ORIGINAL AND ALL COPIES OF ITS EXPUNCTION  
8 ORDER AND SHALL NOT PERMIT ANY PERSON OR AGENCY TO EXAMINE SUCH  
9 SEALED DOCUMENTS.

10 (B) ANY EXPUNGED RECORD OF ARREST OR PROSECUTION SHALL NOT  
11 HEREFTER BE REGARDED AS AN ARREST OR PROSECUTION FOR THE  
12 PURPOSE OF ANY STATUTE OR REGULATION OR LICENSE OR QUESTIONNAIRE  
13 OR ANY CIVIL OR CRIMINAL PROCEEDING OR ANY OTHER PUBLIC OR  
14 PRIVATE PURPOSE. NO PERSON SHALL BE PERMITTED TO LEARN OF AN  
15 EXPUNGED ARREST OR PROSECUTION, OR OF THE EXPUNCTION, EITHER  
16 DIRECTLY OR INDIRECTLY. ANY PERSON, EXCEPT THE INDIVIDUAL  
17 ARRESTED OR PROSECUTED, WHO DIVULGES SUCH INFORMATION IN  
18 VIOLATION OF THIS SUBSECTION SHALL BE GUILTY OF A MISDEMEANOR  
19 AND SHALL, UPON CONVICTION THEREOF, BE PUNISHED BY IMPRISONMENT  
20 NOT EXCEEDING NINETY (90) DAYS OR A FINE NOT EXCEEDING ONE  
21 THOUSAND DOLLARS (\$1,000), OR BOTH.

22 (C) NOTHING CONTAINED IN THIS SECTION SHALL PROHIBIT A  
23 PERSON ACTING PURSUANT TO PRIOR PRACTICE FROM PETITIONING AN  
24 APPROPRIATE COURT FOR AN EXPUNCTION ORDER.

25 Section ~~18-~~ 20. Offenses by a Corporation, Copartnership or <—  
26 Association.--If any violation of the provisions of this act is  
27 by a corporation, copartnership or association, the officers and  
28 directors of such corporation or the members of such  
29 copartnership or association, the agents and employees with prior  
30 guilty knowledge of the fact, shall be deemed guilty of a

1 violation of the provisions of this act to the same extent as  
2 though said violation were committed by them personally.

3 ~~Section 19. Expunging Criminal Records. (a) Any arrest for~~ <—  
4 ~~a criminal offense under this act or under the provisions~~  
5 ~~previously governing narcotics and dangerous drugs or substances~~ <—  
6 ~~in the Commonwealth of Pennsylvania, or any political~~  
7 ~~subdivision thereof, shall promptly be expunged from the~~  
8 ~~person's public arrest and other public criminal records when~~  
9 ~~the charges are withdrawn or dismissed or the person is~~  
10 ~~acquitted of the charges.~~

11 ~~(b) Any conviction of a criminal offense under this act or~~  
12 ~~under the provisions previously governing narcotics and~~  
13 ~~dangerous drugs or substances in the Commonwealth of~~  
14 ~~Pennsylvania or any political subdivision thereof may be~~  
15 ~~expunged from all public criminal records by a court upon the~~  
16 ~~filing of a petition supported by substantial evidence of good~~  
17 ~~conduct since the petitioner's conviction. Copies of the~~  
18 ~~petition shall be served on the Attorney General and the~~  
19 ~~district attorney, who shall be responsible for consulting other~~  
20 ~~appropriate public agencies and departments. If a district~~  
21 ~~attorney files a motion to dismiss the petition within sixty~~  
22 ~~days, the court, without a jury, shall hold a full and fair~~  
23 ~~hearing before ruling on the issue. The petitioner shall have~~  
24 ~~the right to cross examine any adverse witness or rebut any~~  
25 ~~adverse evidence. The proceeding shall be private. The petition~~  
26 ~~shall be granted if supported by substantial evidence of good~~  
27 ~~conduct since the petitioner's conviction unless the court~~  
28 ~~finds, on the basis of evidence of record, good cause not to~~  
29 ~~accept the petitioner's allegations of good conduct. The~~  
30 ~~petition may be filed and heard only after the following time~~

1 lapses:

2 ~~(1) For a conviction for trafficking in the third degree or~~  
3 ~~possession in the second degree, or any offense under prior law~~  
4 ~~that would not come within any of these provisions, after two~~  
5 ~~years from the date or release from a penal institution or from~~  
6 ~~the date of conviction if not sent to a penal institution.~~

7 ~~(2) For a conviction for possession in the first degree, or~~  
8 ~~any offense under prior law that would not come within any of~~  
9 ~~these provisions, after three years from the date of release~~  
10 ~~from a penal institution or from the date of conviction if not~~  
11 ~~sent to a penal institution.~~

12 ~~(3) For a conviction for any other offense under this act,~~  
13 ~~or any offense under prior law that would now come within any of~~  
14 ~~these provisions, or any offense under prior law governing~~  
15 ~~narcotics and controlled drugs or controlled dangerous~~  
16 ~~substances that would not now come within any of these~~  
17 ~~provisions, after three years from the date of release from a~~  
18 ~~penal institution or from the date of conviction if not sent to~~  
19 ~~a penal institution.~~

20 ~~(c) Any expunged arrest or conviction shall not thereafter~~  
21 ~~be regarded as an arrest or conviction for the purpose of any~~  
22 ~~statute or regulation or license or questionnaire or any other~~  
23 ~~public or private purpose: Provided, That it shall continue to~~  
24 ~~constitute an offense for purposes of any criminal statute under~~  
25 ~~which the existence of a prior conviction is relevant to the~~  
26 ~~penalty to be imposed. No person shall be permitted to learn of~~  
27 ~~an expunged arrest or conviction, or of the expungement, by any~~  
28 ~~means whatever: Provided, That the judiciary, court personnel,~~  
29 ~~and district attorneys may learn of an expunged arrest or~~  
30 ~~conviction, and of the expungement, where it becomes relevant to~~

1 ~~a penalty to be imposed in a subsequent case. Any person who~~  
2 ~~seeks or divulges such information in violation of this~~  
3 ~~subsection shall be guilty of a misdemeanor, and shall, upon~~  
4 ~~conviction thereof be punished by imprisonment not exceeding~~  
5 ~~ninety days, or a fine not exceeding one thousand dollars~~  
6 ~~(\$1,000), or both.~~

7       Section ~~20.~~ 21. Burden of Proving Exemptions.--In any       <—  
8 prosecution under this act, it shall not be necessary to negate  
9 any of the exemptions OR EXCEPTIONS of this act in any       <—  
10 complaint, information or ~~indictment~~ TRIAL. The burden of       <—  
11 ~~proving any exemption under this act shall be upon the~~       <—  
12 ~~defendant.~~ PROOF OF SUCH EXEMPTION OR EXCEPTION SHALL BE UPON       <—  
13 THE PERSON CLAIMING IT.

14       SECTION 22. JUDICIAL REVIEW.--ANY PERSON AGGRIEVED BY A  
15 FINAL ADMINISTRATIVE DECISION MAY OBTAIN REVIEW OF THE DECISION  
16 PURSUANT TO THE PROVISIONS OF THE ADMINISTRATIVE AGENCY LAW.

17       Section ~~21.~~ 23. Revocation of Licenses of Practitioners.--       <—

18 (a) Any license OR REGISTRATION heretofore issued to any       <—  
19 ~~physician, dentist, veterinarian, pharmacist or nurse may be~~       <—  
20 ~~either~~ PRACTITIONER MAY EITHER BE revoked or suspended by the       <—  
21 proper officers or boards having power to issue licenses OR       <—  
22 REGISTRATION to any of the foregoing, upon proof that the  
23 licensee OR REGISTRANT is ~~addicted to~~ A DRUG DEPENDENT PERSON ON       <—  
24 the use of any ~~narcotic drugs~~ CONTROLLED SUBSTANCE after giving       <—  
25 such licensee OR REGISTRANT reasonable notice and opportunity to       <—  
26 be heard.

27       (b) The appropriate licensing boards in the Department of  
28 State are hereby authorized to revoke or suspend the  
29 registration or license of any ~~physician, surgeon, dentist,~~       <—  
30 ~~veterinarian, pharmacist or nurse,~~ PRACTITIONER when such person       <—

1 has pleaded guilty or nolo contendere or has been ~~found guilty~~ <—  
2 ~~by a judge or jury of violating~~ CONVICTED OF A FELONY UNDER THIS <—  
3 ACT OR any SIMILAR State or Federal law. ~~pertaining to the sale,~~ <—  
4 ~~use or distribution of narcotics.~~ Before any such revocation or  
5 suspension, the licensee or registrant shall be given a hearing  
6 before the appropriate board. At such hearing the accused may be  
7 represented by counsel and shall be entitled to compulsory  
8 attendance of witnesses.

9 Section ~~22.~~ 24. Administrative Inspections and Warrants.-- <—

10 (a) As used in this section, the term "controlled premises"  
11 means:

12 (1) Places where original or other records or documents  
13 required under this act are kept or required to be kept; and

14 (2) Places, including factories, warehouses, or other  
15 establishments, and conveyances, where persons registered under  
16 section 6 (or exempted from registration under section 6) may  
17 lawfully hold, manufacture, or distribute, dispense, administer  
18 or otherwise dispose of controlled ~~dangerous~~ substances. <—

19 (b) (1) For the purpose of inspecting, copying, and  
20 verifying the correctness of records, reports, or other  
21 documents required to be kept or made under this act and  
22 otherwise facilitating the carrying out of his functions under  
23 this act, the ~~Secretary of Health~~ SECRETARY is authorized, in <—  
24 accordance with this section, to enter controlled premises and  
25 to conduct administrative inspections thereof, and of the things  
26 specified in this section, relevant to those functions.

27 (2) Such entries and inspections shall be carried out  
28 through officers or employees (hereinafter referred to as  
29 ~~"agents"~~ "OFFICERS") designated by the secretary. Any such ~~agent~~ <—  
30 OFFICER upon stating his purpose and presenting to the owner, <—

1 operator, or ~~agent~~ OFFICER in charge of such premises (i) <—  
2 appropriate credentials and (ii) a written notice of his  
3 inspection authority (which notice in the case of an inspection  
4 requiring, or in fact supported by, an administrative inspection  
5 warrant shall consist of such warrant), shall have the right to  
6 enter such premises and conduct such inspection at reasonable  
7 times.

8 (3) Except as may otherwise be indicated in an applicable  
9 inspection warrant, the ~~agent~~ OFFICER shall have the right: (i) <—  
10 to inspect and copy records, reports, and other documents  
11 required to be kept or made under this act; (ii) to inspect,  
12 within reasonable limits and in a reasonable manner, controlled  
13 premises and all pertinent equipment, finished and unfinished  
14 drugs and other substances or materials, containers, and  
15 labeling found therein, and, except as provided in ~~clause (5) of~~ <—  
16 this subsection, all other things therein (including records,  
17 files, papers, processes, controls, and facilities) appropriate  
18 for verification of the records, reports, and documents referred  
19 to in subclause (i) or otherwise bearing on the provisions of  
20 this act; and (iii) to inventory any stock of any controlled  
21 substance, OTHER DRUG, DEVICE AND COSMETIC therein and obtain <—  
22 samples of any such substance OR ARTICLE. <—

23 (4) Except when the owner, operator, or ~~agent~~ OFFICER in <—  
24 charge of the controlled premises so consents in writing, no  
25 inspection authorized by this section shall extend to: (i)  
26 financial data; (ii) sales data other than shipment data; ~~or~~ <—  
27 (iii) pricing data; OR (IV) RESEARCH DATA. <—

28 (c) A warrant under this section shall not be required for  
29 the inspection of books and records pursuant to an  
30 administrative subpoena issued in accordance with any provisions

1 of any Act of Assembly nor for entries and administrative  
2 inspections (including seizures of property):

3 (1) With the consent of the owner, operator, or ~~agent~~ <—  
4 OFFICER in charge of the controlled premises; <—

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

7 (3) In situations involving inspection of conveyances where  
8 there is reasonable cause to believe that the mobility of the  
9 conveyance makes it impracticable to obtain a warrant;

10 (4) In any other exceptional or emergency circumstance where  
11 time or opportunity to apply for a warrant is lacking; or

12 (5) In any other situations where a warrant is not  
13 constitutionally required.

14 (d) Issuance and execution of administrative inspection  
15 warrants shall be as follows:

16 (1) Any judge of a ~~Commonwealth court of record~~ COURT, may, <—  
17 within his territorial jurisdiction, and upon proper oath or  
18 affirmation showing probable cause, issue warrants for the  
19 purpose of conducting administrative inspections authorized by  
20 this act or regulations thereunder, and seizures of property  
21 appropriate to such inspections. For the purposes of this  
22 section, the term "probable cause" ~~means~~ EXISTS UPON SHOWING a <—  
23 valid public interest in the effective enforcement of this act  
24 or regulations thereunder sufficient to justify administrative  
25 inspections of the area, premises, building, or conveyance, or  
26 contents thereof, in the circumstances specified in the  
27 application for the warrant.

28 (2) A warrant shall issue only upon an affidavit of ~~an~~ A <—  
29 DESIGNATED officer or employe having knowledge of the facts  
30 alleged, sworn to before the judge and establishing the grounds

1 for issuing the warrant. If the judge is satisfied that grounds  
2 for the application exist or that there is probable cause to  
3 believe they exist, he shall issue a warrant identifying the  
4 area, premises, building, or conveyance to be inspected, the  
5 purpose of such inspection, and, where appropriate, the type of  
6 property to be inspected, if any. The warrant shall identify the  
7 items or types of property to be seized, if any. The warrant  
8 shall be directed to a person authorized under subsection (b)  
9 (2) to execute it. The warrant shall state the grounds for its  
10 issuance and the name of the person or persons whose affidavit  
11 has been taken in support thereof. It shall command the person  
12 to whom it is directed to inspect the area, premises, building,  
13 or conveyance identified for the purpose specified, and, where  
14 appropriate, shall direct the seizure of the property specified.  
15 The warrant shall direct that it be served during normal  
16 business hours. It shall designate the judge to whom it shall be  
17 returned.

18 (3) A warrant issued pursuant to this section must be  
19 executed and returned within ten days of its date unless, upon a  
20 showing by the ~~Secretary of Health~~ SECRETARY of a need therefor, <—  
21 the judge allows additional time in the warrant. If property is  
22 seized pursuant to a warrant, the person executing the warrant  
23 shall give to the person from whom or from whose premises the  
24 property was taken a copy of the warrant and a receipt for the  
25 property taken or shall leave the copy and receipt at the place  
26 from which the property was taken. The return of the warrant  
27 shall be made promptly and shall be accompanied by a written  
28 inventory of any property taken. The inventory shall be made in  
29 the presence of the person executing the warrant and of the  
30 person from whose possession or premises the property was taken,



1 if they are present, or in the presence of at least one credible  
2 person other than the person making such inventory, and shall be  
3 verified by the person executing the warrant. ~~The judge upon~~ <—  
4 ~~request, shall deliver a~~ A copy of the inventory SHALL BE <—  
5 DELIVERED to the person from whom or from whose premises the  
6 property was taken and to the applicant for the warrant.

7 (4) The judge who has issued a warrant under this section  
8 shall attach to the warrant a copy of the return and all papers  
9 RETURNABLE filed in connection therewith and shall file them <—  
10 with the clerk of the court for the judicial district in which  
11 the inspection was made.

12 Section ~~23-~~ 25. Injunctive Relief.--In addition to the <—  
13 remedies provided herein, the secretary is hereby authorized to  
14 apply to the court of common pleas in the county in which such  
15 violation occurs or to the Commonwealth Court for, and such  
16 court shall have jurisdiction to grant, a temporary or permanent  
17 injunction restraining any person from continued violation of  
18 any provision of this act irrespective of the existence of an  
19 adequate remedy at law.

20 Section ~~24-~~ 26. Cooperation With Other Authorities.--The <—  
21 agencies charged with the enforcement of this act shall actively  
22 cooperate and coordinate with the agencies charged with the  
23 enforcement of all Federal and State laws relating to the  
24 regulation of the distribution of controlled ~~drugs or dangerous~~ <—  
25 substances, OTHER DRUGS, DEVICES OR COSMETICS. <—

26 Section ~~25-~~ 27. Embargo ~~and Seizure~~.--(a) Whenever a duly <—  
27 authorized ~~agent~~ OFFICER of the secretary finds or has probable <—  
28 cause to believe that any CONTROLLED SUBSTANCE, OTHER drug, <—  
29 device or cosmetic is adulterated or misbranded or contraband,  
30 the same shall be deemed subject to embargo and he shall affix

1 to such SUBSTANCE OR article ~~or articles~~ a tag or other <—  
2 appropriate marking, approved by the secretary, giving notice  
3 that such SUBSTANCE OR article is or is suspected of being <—  
4 adulterated, misbranded or contraband and warning all persons  
5 not to remove or dispose of such SUBSTANCE OR article ~~or~~ <—  
6 ~~articles~~ until permission so to do has been granted by such  
7 ~~agent~~ OFFICER, or until it shall have determined by proper <—  
8 authority that such SUBSTANCE OR article ~~or articles~~ are not <—  
9 adulterated, misbranded or contraband. At the time such notice  
10 is offered, the ~~agent~~ OFFICER shall provide the person in charge <—  
11 of such ~~articles~~ SUBSTANCE OR ARTICLE, if any, or the owner, if <—  
12 he is known, a statement in writing, setting forth both the  
13 basis for the embargo and supporting facts.

14 (b) When ~~an article or articles~~ A SUBSTANCE OR ARTICLE is <—  
15 detained or embargoed under subsection (a), the secretary shall  
16 serve within three days from the date of such embargo a citation  
17 upon the claimant thereof or owner, if he is known, setting  
18 forth both the basis for the embargo and supporting facts and  
19 fixing a date for a hearing not later than ten days from the  
20 date of service of said citation at which a hearing examiner,  
21 appointed under the authority of section ~~27~~ 30, will receive <—  
22 evidence pertaining to the alleged offense. Unless postponed by  
23 mutual consent, failure to serve a citation or commence hearings  
24 within the time herein specified shall operate to void such  
25 embargo.

26 (c) If, after hearing, the examiner is satisfied from the  
27 evidence presented that a detained or embargoed SUBSTANCE OR <—  
28 article is adulterated, misbranded or contraband, he shall,  
29 within five days of the conclusion of the hearing, order such  
30 SUBSTANCE OR article ~~or articles~~ destroyed at the expense of the <—

1 claimant thereof under supervision of an agent of the secretary:  
2 Provided, That when the embargo is based on an adulteration or  
3 misbranding which can be corrected by proper labeling or  
4 processing of the SUBSTANCE OR article, the examiner, after <—  
5 entry of the order and after such costs, fees and expenses have  
6 been paid and a good and sufficient bond conditioned that such  
7 SUBSTANCE OR article shall be so labeled or processed has been <—  
8 executed, may by order direct that such SUBSTANCE OR article be <—  
9 released to the claimant thereof for such labeling or processing  
10 under the supervision of an ~~agent~~ OFFICER of the secretary. The <—  
11 expense of such supervision, if any, shall be paid by the  
12 claimant. Such SUBSTANCE OR article shall be released to the <—  
13 claimant ~~of the article when the article~~ WHEN IT is no longer in <—  
14 violation of this act and the expenses of such supervision have  
15 been paid.

16 (d) If no claimant shall appear to defend such proceedings,  
17 the hearing examiner may order the embargoed SUBSTANCES OR <—  
18 articles destroyed or distributed to a nonprofit institution.

19 Section ~~26~~. 28. Forfeiture.--(a) The following shall be <—  
20 subject to forfeiture to the Commonwealth and no property right  
21 shall exist in them:

22 (1) All controlled ~~paraphernalia~~ SUBSTANCES OR OTHER DRUGS <—  
23 which have been manufactured, distributed, dispensed, or  
24 acquired in violation of this act.

25 (2) All raw materials, products, and equipment of any kind  
26 which are used, or intended for use in manufacturing,  
27 compounding, processing, delivering, importing, or exporting any  
28 controlled ~~dangerous~~ substance OR OTHER DRUG in violation of <—  
29 this act.

30 (3) All property which is used, or intended for use, as a

1 container for property described in clause (1) or (2) of this  
2 subsection.

3 (4) All conveyances, including aircraft, vehicles, or  
4 vessels, which are used or are intended for use, to transport,  
5 or in any manner to facilitate the transportation, sale,  
6 receipt, possession, or concealment of property described in  
7 clause (1) or (2) except that:

8 (i) no conveyance used by any person as a common carrier in  
9 the transaction of business as a common carrier shall be  
10 forfeited under the provisions of this section unless it shall  
11 appear that the owner or other person in charge of such  
12 conveyance was a consenting party or privy to a violation of  
13 this title; ~~and~~ <—

14 (ii) no conveyance shall be forfeited under the provisions  
15 of this section by reason of any act or omission established by  
16 the owner thereof to have been committed or omitted without his  
17 knowledge or consent; AND <—

18 (iii) No ~~perfected~~ BONA FIDE security interest retained or <—  
19 acquired under the Uniform Commercial Code by any merchant  
20 dealing in new or used aircraft, vehicles or vessels, or  
21 retained or acquired by any licensed or regulated finance  
22 company, bank, lending institution, or by any other business  
23 regularly engaged in the financing of, or lending on the  
24 security of, such aircraft, vehicles or vessels, shall be  
25 subject to forfeiture or impairment. ~~under the provisions of~~ <—  
26 ~~this subheading.~~

27 (5) All books, records, and research, including formulas,  
28 microfilm, tapes and data which are used, or intended for use,  
29 in violation of this act.

30 (b) Property subject to forfeiture under this act may be

1 seized by the law enforcement authority upon process issued by  
2 any court of common pleas having jurisdiction over the property.  
3 Seizure without process may be made if:

4 (1) The seizure is incident to an arrest or a search under a  
5 search warrant or inspection under an administrative inspection  
6 warrant;

7 (2) The property subject to seizure has been the subject of  
8 a prior judgment in favor of the Commonwealth in a criminal  
9 injunction or forfeiture proceeding under this act;

10 (3) There is probable cause to believe that the property is  
11 ~~directly or indirectly~~ dangerous to health or safety; or <—

12 (4) There is probable cause to believe that the property has  
13 been used or is intended to be used in violation of this act.

14 (c) In the event seizure without process occurs, as provided  
15 herein, proceedings for the issuance thereof shall be instituted  
16 ~~promptly~~. FORTHWITH. <—

17 (d) Property taken or detained under this section shall not  
18 be subject to replevin, but is deemed to be in the custody of  
19 the law enforcement authority subject only to the orders and  
20 decrees of the court of common pleas having jurisdiction over  
21 the forfeiture proceedings AND OF THE SECRETARY. When property <—  
22 is seized under this act, the law enforcement authority ~~may~~: <—  
23 SHALL: <—

24 (1) Place the property under seal; AND EITHER <—

25 (2) Remove the property to a place designated by it; or

26 (3) Require that the ~~proper administrative authority~~ <—  
27 DEPARTMENT take custody of the property and remove it to an <—  
28 appropriate location for disposition in accordance with law.

29 (e) Whenever property is forfeited under this act, the ~~law~~ <—  
30 ~~enforcement authority may~~ PROPERTY SHALL BE TRANSFERRED TO THE <—

1 CUSTODY OF THE DEPARTMENT AND THE SECRETARY MAY:

2 (1) Retain the property for official use;

3 (2) Sell any forfeited property which is not required to be  
4 destroyed by law and which is not harmful to the public, but the  
5 proceeds from any such sale shall be used to pay all proper  
6 expenses of the proceedings for forfeiture and sale including  
7 expenses of seizure, maintenance of custody, advertising and  
8 court costs. <—

9 ~~(3) Require that the appropriate administrative agency take~~ <—  
10 ~~custody of the property and remove it for disposition in~~  
11 ~~accordance with law; or~~

12 ~~(4) Forward it to the council, or its successor agency, for~~  
13 ~~disposition.~~

14 ~~(f) Procedure with respect to seized property subject to~~  
15 ~~liens and rights of lienholders.~~

16 ~~(1) Notification of owner of confiscated vehicle, vessel or~~  
17 ~~aircraft. The person or governmental agency that~~

18 SECTION 29. PROCEDURE WITH RESPECT TO SEIZED PROPERTY <—  
19 SUBJECT TO LIENS AND RIGHTS OF LIENHOLDERS.--(A) THE PERSON WHO  
20 seized said property shall notify the registered owner and  
21 lienholder, where possible, and shall publish notice in a  
22 newspaper of general circulation in the county or the city,  
23 where seized, of any vehicle, vessel or aircraft confiscated  
24 ~~under this subheading,~~ informing interested persons of the <—  
25 seizure and right to file a claim protesting the confiscation of  
26 said vehicle, vessel or aircraft.

27 ~~(2) Claim for return of confiscated property.~~ (B) Any lawful <—  
28 lienholder, or other person showing a legal right, title or  
29 interest in a vehicle, vessel or aircraft, confiscated pursuant  
30 to this subtitle may, within thirty days of publication of

1 notice file a claim protesting such seizure with the court or  
2 with the person ~~or governmental agency~~ having jurisdiction <—  
3 thereof. When such a claim is filed, the court of common pleas  
4 of the county wherein the property was confiscated, shall  
5 proceed in rem to hear and determine the question of forfeiture.

6 ~~(3) Rights of lienholders.~~ (C) If the court determines any <—  
7 property is subject to forfeiture it shall also determine  
8 whether any lawful lienholder who has filed a timely claim and  
9 protest had knowledge of such intended unlawful use. If the  
10 court shall find such knowledge then the lienholder's right,  
11 title and interest to the property shall likewise be deemed  
12 forfeited. If the court does not find such knowledge and the  
13 property is otherwise subject to forfeiture, it shall be  
14 forfeited and the person ~~or agency~~ having custody of such <—  
15 property shall either pay the outstanding indebtedness secured  
16 by such lawful lien and keep the property or deliver the  
17 property to the said lienholder.

18 Section ~~27~~. 30. Hearing Examiners.--(a) The secretary shall <—  
19 appoint, with the approval of the Governor, such hearing  
20 examiners as shall be necessary to conduct hearings as provided  
21 in section ~~25~~ 27. <—

22 (b) Hearing examiners appointed under this act shall have  
23 the power to issue subpoenas requiring the attendance and  
24 testimony of, or the production of, pertinent books and papers  
25 by persons whom they believe to have information relevant to any  
26 matter pending before him. Such examiner shall also have the  
27 power to administer oaths.

28 (c) Any person who refuses to obey a subpoena issued  
29 hereunder or to be sworn or affirmed or to testify, or who is  
30 guilty of any contempt after summons to appear, may be punished

1 as for contempt of court. For this purpose, an application may  
2 be made by the examiner to the court of common pleas within the  
3 territorial jurisdiction of which the offense was committed for  
4 which purpose such court is hereby given jurisdiction.

5 (d) In any action or proceeding before him, the hearing  
6 examiner may assess all costs incurred in connection with the  
7 prosecution of such proceeding, including investigative and  
8 laboratory costs incurred by the Commonwealth, against  
9 respondent in such proceeding; such costs to be in addition to  
10 any other penalty imposed and to be retained by the Department  
11 of Health and applied to cost to the department administering  
12 this act.

13 (e) Hearings shall be conducted under the provisions of the  
14 Administrative Agency Law, as amended, and subject to such other  
15 rules and regulations not inconsistent therewith as the  
16 secretary may provide and any person aggrieved by any action of  
17 the hearing examiner may appeal in accordance with the  
18 provisions of the Administrative Agency Law, as amended.

19 Section ~~28~~ 31. Board Creation.--(a) There is hereby created <—  
20 within the Department of Health a departmental administrative  
21 board to be known as the "Pennsylvania Drug, Device and Cosmetic  
22 Board."

23 (b) The board shall consist of the Secretary of Health, his  
24 successors in office, and ten additional members whom the  
25 Governor shall appoint, by and with the advice and consent of  
26 two-thirds of all the members of the Senate. Of the members: one  
27 shall be a physician, one a dentist, one a veterinarian, one a  
28 psychologist OR PSYCHIATRIST and one a pharmacist, each of whom <—  
29 shall be duly licensed in their respective professions by the  
30 Commonwealth; one shall be a biochemist and one shall be a



1 pharmacologist, each of whom shall have earned an advanced  
2 degree in that field from an institution of higher learning and  
3 shall have been engaged as such for three years in this State;  
4 one shall be a manufacturer registered to manufacture drugs or  
5 an employe thereof; and the two remaining persons shall be  
6 members of the general public not engaged in any of the  
7 aforementioned ~~professional fields, who shall be citizens of~~ <—  
8 ~~this State.~~ BUT ONE OF WHOM SHALL BE WELL INFORMED ON THE <—  
9 PROBLEMS CAUSED BY THE ABUSE AND MISUSE OF DRUGS OR OTHER  
10 CHEMICALS. Two members initially shall serve for terms of one,  
11 two, three and four years, respectively, the particular term of  
12 each to be designated by the Governor at the time of  
13 appointment. Any additional member, the appointment of whom is  
14 authorized by amending act, shall serve for a term of four  
15 years. The terms of all their successors shall be four years  
16 each, except that any person appointed to fill a vacancy shall  
17 serve only for the unexpired term. Every member's term shall  
18 extend until his successor is appointed and qualified. Any  
19 appointed member of the board shall be eligible for  
20 reappointment. Each member of the board shall receive  
21 compensation at a rate of ~~thirty dollars (\$30)~~ FIFTY DOLLARS <—  
22 (\$50) per diem in addition to expenses incurred when actually  
23 engaged in official meetings or otherwise in the performance of  
24 their official duties as directed by the chairman.

25 (c) The Secretary of Health, or his designate, shall serve  
26 as chairman of the board. A majority of the members shall  
27 constitute a quorum for the purpose of organizing the board,  
28 conducting its business, and exercising all of its powers. A  
29 vote of the majority of the members present shall be sufficient  
30 for all actions of the board unless the bylaws require a greater

1 number.

2 (d) The board shall have the power to prescribe, amend and  
3 repeal bylaws, rules and regulations governing the manner in  
4 which the business of the body is conducted and the manner in  
5 which the powers granted to it are exercised. The board may  
6 delegate supervision of the administration of board activities  
7 to an administrative secretary and such other employees as the  
8 Secretary of Health shall appoint.

9 (e) The board shall have the power to do all things  
10 necessary or convenient to carry out the powers granted to it by  
11 this act.

12 (f) The board may, for the authentication of its records,  
13 process and proceedings, adopt, keep and use a common seal of  
14 which seal judicial notice shall be taken in all courts of this  
15 Commonwealth and any process, writ, notice or other document,  
16 which the board may be authorized by law to issue, shall be  
17 deemed sufficient if signed by the chairman or secretary of the  
18 board and authenticated by such seal. All acts, proceedings,  
19 orders, papers, findings, minutes and records of the board, and  
20 all reports and documents filed with the board, may be proved in  
21 any court of this Commonwealth by a copy thereof certified to by  
22 the chairman or secretary of the board with the seal of the  
23 board attached.

24 (g) In order to enable the board to carry out the provisions  
25 of this act, including its power to advise the secretary on  
26 various matters, it shall have the power to issue subpoenas,  
27 requiring the attendance and testimony of, or the production of,  
28 pertinent books and papers by persons whom the board believes to  
29 have information, books or papers of importance to it in  
30 carrying out the purposes and intent of this act. Each member of

1 the board and such officers, employees or others employed in the  
2 work of the board designated by the chairman of the board also  
3 shall have the power to administer oaths and affirmations, to  
4 question witnesses thereunder, and to examine such books and  
5 papers. The board may issue commissions, letters rogatory, or  
6 other appropriate processes outside the Commonwealth.

7 (h) Any person who refuses to obey a subpoena issued  
8 hereunder, or to be sworn or affirmed, or to testify, or who is  
9 guilty of any contempt after summons to appear, may be punished  
10 as for contempt of court. For this purpose an application may be  
11 made by the board to the court of common pleas within the  
12 territorial jurisdiction of which the offense was committed, for  
13 which purpose, such court is hereby given jurisdiction.

14 Section ~~29~~. 32. Persons Authorized to Prescribe Drugs to <—  
15 Remain as Heretofore.--No provision of this act or any rule or  
16 regulation promulgated pursuant to this act shall authorize or  
17 be construed as authorizing any person to prescribe drugs who is  
18 not specifically so authorized under existing law.

19 Section ~~30~~. 33. Conformity With Federal Law.--No CONTROLLED <—  
20 SUBSTANCE, OTHER drug, device or cosmetic shall be deemed to be  
21 adulterated or misbranded under this act if ~~such drug, device or~~ <—  
22 ~~cosmetic~~ IT complies with the applicable Federal act and/or <—  
23 regulations and interpretations issued pursuant thereto, unless  
24 the secretary, after consultation with and upon the  
25 recommendation of the board, shall have previously promulgated a  
26 regulation stating that the applicable provision of the Federal  
27 act and/or regulations and interpretations thereof would not be  
28 followed.

29 Section ~~31~~. 34. Administration of Act.--(a) Except as may be <—  
30 otherwise provided by law, the provisions of this act shall be

1 administered by the Department of Health of the Commonwealth of <—  
2 Pennsylvania. DEPARTMENT. The Secretary of Health SECRETARY is <—  
3 authorized to employ such consultants, assistants, <—  
4 stenographers, clerks and other employes as, in his opinion, may  
5 be necessary PERSONNEL and to fix their compensation subject to <—  
6 THE ACT OF APRIL 9, 1929 (P.L.177), KNOWN AS "The Administrative <—  
7 Code of 1929," 1929." as amended, act of April 9, 1929 <—  
8 (P.L.177).

9 ~~(b) The secretary is authorized and directed to establish a~~  
10 ~~Bureau of Narcotics Control within the department and to employ~~  
11 ~~therein sufficient law enforcement personnel to act as agents~~  
12 ~~for the purpose of performing the inspection, training,~~  
13 ~~prevention and enforcement duties imposed upon the department by~~  
14 ~~this act.~~

15 ~~(c) Any officer or employe of the Bureau of Narcotics of the~~  
16 ~~department may:~~

17 (B) THE SECRETARY IS AUTHORIZED AND DIRECTED TO ESTABLISH A <—  
18 BUREAU OF DRUG CONTROL WITHIN THE DEPARTMENT AND TO EMPLOY  
19 THEREIN SUFFICIENT PERSONNEL TO PERFORM THE DUTIES IMPOSED UPON  
20 THE DEPARTMENT BY THIS ACT.

21 (C) THE SECRETARY MAY DESIGNATE SPECIFIC OFFICERS AND  
22 EMPLOYES OF THE BUREAU OF DRUG CONTROL AS LAW ENFORCEMENT  
23 PERSONNEL AND AUTHORIZE SUCH PERSONNEL TO:

24 (1) Carry firearms in the performance of his official  
25 duties;

26 (2) Execute and serve search warrants, arrest warrants,  
27 administrative inspection warrants, subpoenas, and summonses  
28 issued under the authority of the Commonwealth;

29 (3) Make arrests without warrant for any offense under this  
30 act committed in his presence, or if he has probable cause to

1 believe that the person to be arrested has committed or is  
2 committing a violation of this act which may constitute a  
3 felony;

4 (4) Make seizures of property pursuant to this act; or

5 (5) Perform other law enforcement duties as the secretary  
6 designates.

7 (d) Nothing contained herein shall be deemed to limit the  
8 authority of the Bureau of ~~Narcotics Control~~ or DRUG CONTROL, <—  
9 THE PENNSYLVANIA STATE POLICE, the Department of Justice or any  
10 other law enforcement agency in dealing with law enforcement  
11 matters with respect to ~~professional criminals~~ PERSONS engaged <—  
12 in the unlawful importation, manufacture, DISTRIBUTION, sale and <—  
13 production of ~~drugs and~~ controlled ~~dangerous~~ substances, OTHER <—  
14 DRUGS OR DEVICES OR COSMETICS nor the authority of the council  
15 in performing any duties imposed upon it by the "Pennsylvania  
16 Drug ~~Narcotic~~ and Alcohol Abuse ~~Act of 1971.~~" ACT." <—

17 Section ~~32.~~ 35. Promulgation of Regulations.--~~(a)~~ The <—  
18 secretary shall have the authority to promulgate in accordance  
19 with the provisions of this section and of the act of July 31,  
20 1968 (Act No. 240), known as the "Commonwealth Documents Law"  
21 any regulations hereinbefore referred to in this act and such  
22 other regulations ~~upon the advice~~ WITH THE CONSENT of the board <—  
23 regarding the possession, DISTRIBUTION, sale, purchase or <—  
24 manufacture of CONTROLLED SUBSTANCES, OTHER drugs OR devices or <—  
25 cosmetics as may be necessary to aid in the enforcement of this  
26 act.

27 ~~(b) (i) Prior to the promulgation, amendment or repeal of~~ <—  
28 ~~any regulation under this act the secretary shall give at least~~  
29 ~~thirty days public notice of his proposed action, and shall~~  
30 ~~afford all interested persons an opportunity to present their~~

~~views thereon either orally or in writing. As soon as practicable thereafter, the secretary shall either withdraw such proposal or shall promulgate the proposed regulation.~~

~~(ii) Any person aggrieved by the promulgation, amendment or repeal of a regulation, or by the refusal to promulgate, amend or repeal a regulation, may file objections with the secretary specifying, with particularity, the reason why such action is deemed objectionable and the grounds for such objection. As soon as possible after the filing of objections, the secretary shall hold a public hearing for the purpose of receiving evidence relevant to such objections. As soon as practicable after completion of hearings, the secretary shall issue an appropriate order either confirming, modifying or withdrawing the regulation in question.~~

~~(iii) Any party to proceedings, conducted pursuant to paragraph (ii) hereof, aggrieved by the order of the secretary, shall have a right of appeal in accordance with the provisions of the Administrative Agency Law, as amended, and such order shall be deemed an "adjudication" as that term is defined and used in the Administrative Agency Law, as amended.~~

~~Section 33- 36. Administrative Procedure.--The Administrative Agency Law, as amended, shall be applicable in its entirety to the Department of Health in the administration of this act.~~

~~SECTION 37. COOPERATIVE AGREEMENTS AND CONFIDENTIALITY.--(A) THE SECRETARY SHALL COOPERATE WITH FEDERAL AND OTHER STATE AGENCIES IN DISCHARGING HIS RESPONSIBILITIES CONCERNING TRAFFIC IN CONTROLLED SUBSTANCES, OTHER DRUGS, DEVICES AND COSMETICS AND IN SUPPRESSING THE ABUSE OF SUCH SUBSTANCES AND ARTICLES. TO THIS END, HE MAY:~~

(1) ARRANGE FOR THE EXCHANGE OF INFORMATION AMONG  
GOVERNMENTAL OFFICIALS CONCERNING THE USE AND ABUSE OF SUCH  
SUBSTANCES AND ARTICLES;

(2) COORDINATE AND COOPERATE IN TRAINING PROGRAMS CONCERNING  
LAW ENFORCEMENT AT LOCAL AND STATE LEVELS;

(3) REQUEST THE FEDERAL BUREAU OF NARCOTICS AND DANGEROUS  
DRUGS TO ESTABLISH A CENTRALIZED UNIT TO COLLECT, ACCEPT,  
CATALOGUE AND FILE NONCONFIDENTIAL STATISTICS AND MAKE THE  
INFORMATION AVAILABLE FOR FEDERAL, STATE AND LOCAL LAW  
ENFORCEMENT PURPOSES; AND

(4) CONDUCT PROGRAMS OF ERADICATION AIMED AT DESTROYING WILD  
OR ILLICIT GROWTH OF PLANT SPECIES FROM WHICH DRUGS MAY BE  
EXTRACTED.

(B) RESULTS, INFORMATION, AND EVIDENCE RECEIVED FROM THE  
BUREAU RELATING TO THE REGULATORY FUNCTIONS OF THIS ACT,  
INCLUDING RESULTS OF INSPECTIONS CONDUCTED BY IT MAY BE RELIED  
AND ACTED UPON BY THE SECRETARY IN THE EXERCISE OF HIS  
REGULATORY FUNCTIONS UNDER THIS ACT.

(C) A PRACTITIONER ENGAGED IN MEDICAL PRACTICE OR CLINICAL  
RESEARCH IS NOT REQUIRED NOR MAY HE BE COMPELLED TO FURNISH THE  
NAME OR IDENTITY OF A PATIENT OR RESEARCH SUBJECT TO THE  
SECRETARY, NOR MAY HE BE COMPELLED IN ANY STATE OR LOCAL CIVIL,  
CRIMINAL, ADMINISTRATIVE, LEGISLATIVE OR OTHER PROCEEDINGS TO  
FURNISH THE NAME OR IDENTITY OF SUCH AN INDIVIDUAL.

(D) THIS SECTION SHALL NOT EXEMPT THE PRACTITIONER FROM  
REGULATIONS OF THE SECRETARY PERTAINING TO THE PRESCRIPTION OF  
CONTROLLED SUBSTANCES TO A PATIENT OVER AN EXTENDED PERIOD OR IN  
AN INCREASINGLY LARGE DOSAGE.

Section ~~34~~. 38. Savings Provision.--The provisions of this  
act shall not affect any act done, liability incurred, or right

<—

1 accrued or vested, or affect any suit or prosecution pending to  
2 enforce any right or penalty or punish any offense under the  
3 authority of any Act of Assembly, or part thereof, repealed by  
4 this act.

5 ~~Section 35. Severability. The provisions of this act are~~ <—  
6 ~~severable and, if any provision or part hereof shall be held~~  
7 ~~invalid or unconstitutional or inapplicable to any person or~~  
8 ~~circumstances, such invalidity, unconstitutionality or~~  
9 ~~inapplicability shall not affect or impair the remaining~~  
10 ~~provisions of the act. It is hereby declared to be the~~  
11 ~~legislative intent that this act would have been adopted if such~~  
12 ~~invalid, unconstitutional or inapplicable provision had not been~~  
13 ~~included therein.~~

14 SECTION 39. PENDING PROCEEDINGS.--(A) PROSECUTION FOR ANY <—  
15 VIOLATION OF LAW OCCURRING PRIOR TO THE EFFECTIVE DATE OF THIS  
16 ACT IS NOT AFFECTED OR ABATED BY THIS ACT. IN ANY CASE NOT YET  
17 FINAL IF THE OFFENSE IS SIMILAR TO ONE SET OUT IN THIS ACT, THE  
18 PENALTIES UNDER THIS ACT APPLY IF THEY ARE LESS THAN THOSE UNDER  
19 PRIOR LAW.

20 (B) CIVIL SEIZURES OR FORFEITURES AND INJUNCTIVE PROCEEDINGS  
21 COMMENCED PRIOR TO THE EFFECTIVE DATE OF THIS ACT ARE NOT  
22 AFFECTED BY THIS ACT.

23 (C) ALL ADMINISTRATIVE PROCEEDINGS PENDING UNDER PRIOR LAWS  
24 WHICH ARE SUPERSEDED BY THIS ACT SHALL BE CONTINUED AND BROUGHT  
25 TO A FINAL DETERMINATION IN ACCORD WITH THE LAWS AND RULES IN  
26 EFFECT PRIOR TO THE EFFECTIVE DATE OF THE ACT. ANY SUBSTANCE  
27 CONTROLLED UNDER PRIOR LAW WHICH IS NOT LISTED WITHIN SCHEDULES  
28 I THROUGH V, IS AUTOMATICALLY CONTROLLED WITHOUT FURTHER  
29 PROCEEDINGS AND SHALL BE LISTED IN THE APPROPRIATE SCHEDULE.

30 (D) THE SECRETARY SHALL INITIALLY PERMIT PERSONS TO REGISTER



1 WHO OWN OR OPERATE ANY ESTABLISHMENT ENGAGED IN THE MANUFACTURE  
2 OR DISTRIBUTION OF ANY CONTROLLED SUBSTANCE PRIOR TO THE  
3 EFFECTIVE DATE OF THIS ACT AND WHO ARE REGISTERED OR LICENSED BY  
4 THIS COMMONWEALTH.

5 (E) THIS ACT APPLIES TO VIOLATIONS OF LAW, SEIZURES AND  
6 FORFEITURES, INJUNCTIVE PROCEEDINGS, ADMINISTRATIVE PROCEEDINGS  
7 AND INVESTIGATIONS WHICH OCCUR FOLLOWING ITS EFFECTIVE DATE.

8 SECTION 40. CONTINUATION OF REGULATIONS.--ANY ORDERS AND  
9 REGULATIONS PROMULGATED UNDER ANY LAW AFFECTED BY THIS ACT AND  
10 IN EFFECT ON THE EFFECTIVE DATE OF THIS ACT AND NOT IN CONFLICT  
11 WITH IT CONTINUE IN EFFECT UNTIL MODIFIED, SUPERSEDED OR  
12 REPEALED.

13 SECTION 41. UNIFORMITY OF INTERPRETATION.--THIS ACT SHALL BE  
14 SO APPLIED AND CONSTRUED AS TO EFFECTUATE ITS GENERAL PURPOSE TO  
15 MAKE UNIFORM THE LAW WITH RESPECT TO THE SUBJECT OF THIS ACT  
16 AMONG THOSE STATES WHICH ENACT SIMILAR LEGISLATION.

17 SECTION 42. BAR TO PROSECUTION.--IF A VIOLATION OF THIS ACT  
18 IS A VIOLATION OF A FEDERAL LAW OR THE LAW OF ANOTHER STATE, A  
19 CONVICTION OR ACQUITTAL UNDER FEDERAL LAW OR THE LAW OF ANOTHER  
20 STATE FOR THE SAME ACT IS A BAR TO PROSECUTION IN THIS  
21 COMMONWEALTH.

22 Section ~~36~~ 43. Repeals.--(a) The act of September 26, 1961 <—  
23 (P.L.1664), known as "The Drug, Device and Cosmetic Act," is  
24 hereby repealed.

25 (b) All other acts, or parts of acts, inconsistent with this  
26 act are hereby repealed.

27 ~~Section 37. Effective Date. This act shall take effect~~ <—  
28 ~~sixty days after the enactment thereof.~~