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1. UNIFORM NARCOTIC DRUG ACT OF OHIO—WITHOUT COMPLYING WITH GENERAL REQUIREMENTS OF ACT, EXCEPT AS OTHERWISE PROVIDED—PHYSICIAN, DENTIST OR VETERINARIAN MAY ADMINISTER OR DISPENSE, AND APOTHECARY MAY SELL AT RETAIL, KIND AND QUALITY, NARCOTIC DRUGS LISTED, SECTION 12672-7, PARAGRAPHS 1, 2 GENERAL CODE—COMPLIANCE WITH PARAGRAPHS a, b.
2. WHEN SUCH PERSONS ADMINISTER, DISPENSE OR SELL NARCOTIC DRUGS NOT LISTED IN SAID SECTION, OR IN EXCESS OF QUANTITY PERMITTED, THERE MUST BE COMPLIANCE WITH GENERAL REQUIREMENTS OF SAID ACT.

**SYLLABUS:**

1. Except as otherwise specifically provided in the Uniform Narcotic Drug Act of Ohio a physician, dentist or veterinarian may administer or dispense, and an apothecary may sell at retail, the kind and quantity of narcotic drugs listed in paragraphs (1) and (2) of Section 12672-7, General Code, without complying with the general requirements of said act, providing such persons meet the conditions set forth in paragraphs (a) and (b) of said section.

2. When a physician, dentist or veterinarian administers or dispenses, or an apothecary sells, narcotic drugs of a kind not listed in Section 12672-7, General Code, or in excess of the quantity permitted in said section, such persons must comply with the general requirements of the Uniform Narcotic Drug Act of Ohio.

Columbus, Ohio, March 12, 1942.

Mr. M. N. Ford, Secretary, State Board of Pharmacy,  
Columbus, Ohio.

Dear Sir:

This will acknowledge receipt of your recent communication wherein, after reciting a portion of Section 12672-7, General Code, you seek my opinion on the following:

“The question is, therefore, by considering part (a) (Section 12672-7, General Code) and part (b) (Section 12672-7, General Code), can a physician, dentist or veterinarian, admin-

ister or dispense, or can an apothecary sell more than the exemption provided for within forty-eight consecutive hours, if he ascertains the particular drug is for a legitimate purpose and not for the purpose of evading the general principles of the entire Uniform Narcotic Act, as provided for in the last paragraph of part (b) (Section 12672-7, General Code). In other words, if a pharmacist knows or can by reasonable diligence ascertain that the purchaser wants the preparation for proper medication and he is not purchasing it for the purpose of evading the general provisions of the entire Uniform Narcotic Act, can he then sell to an individual a narcotic preparation that contains more than the exempted amount in any one forty-eight consecutive hours, without being in violation of the Act.”

(Parenthetical matter mine.)

In 1935 the Ninety-First General Assembly enacted the Uniform Narcotic Drug Act which was codified as Sections 12672-1 to 12672-23, inclusive, General Code. Therein inter alia provisions were made for regulating the manufacture, prescription, administering, dispensing and sale of narcotic drugs. In the instant opinion we are concerned only with such regulatory provisions with respect to physicians, dentists, veterinarians and apothecaries.

Section 12672-5, General Code, prescribes conditions under which an apothecary may sell and dispense narcotic drugs to (1) any person, (2) a manufacturer, wholesaler or apothecary, and (3) a physician, dentist or veterinarian. In general the section requires that such sales be made only upon written prescription or order.

In Section 12672-6, General Code, is found authority for physicians, dentists and veterinarians to prescribe on written prescription, administer or dispense narcotic drugs in good faith and in the course of the professional practice of each. Succeeding sections of the act require that records be kept by those persons permitted by law to administer, sell, etc. narcotic drugs (Section 12672-8, General Code), and that labels be affixed to the containers in which such drugs are sold (Section 12672-9, General Code).

We consider now Section 12672-7, General Code, to which you refer in your inquiry, wherein the Legislature exempted certain situations from the operation of the act in question as follows:

“Except as otherwise in this act specifically provided, this act shall not apply to the following cases:

(1) Where a physician, dentist or veterinarian administers or dispenses; or where an apothecary sells at retail any medicinal preparation that contains in one fluid ounce, or if a solid or semi-solid preparation, in one avoirdupois ounce, (a) not more than two grains of opium, (b) not more than one-quarter of a grain of morphine or of any of its salts, (c) not more than one grain of codeine or of any of its salts, (d) not more than one-eighth of a grain of heroin or any of its salts, (e) not more than one-half of a grain of extract of cannabis nor more than one-half of a grain of any more potent derivative or preparation of cannabis.

(2) Where a physician, dentist or veterinarian administers or dispenses; or where an apothecary sells at retail of liniments, ointments, and other preparations, that are susceptible of external use only and that contain narcotic drugs in such combination as prevent their being readily extracted from such liniments, ointments, or preparations, except that this act shall apply to all liniments, ointments, and other preparations, that contain coca leaves in any quantity or combination.

The exemptions authorized by this section shall be subject to the following conditions:

(a) No person shall prescribe, administer, dispense or sell under the exemptions of this section, to any one person, or for the use of any one person or animal, any preparation or preparations included within this section, when he knows, or can by reasonable diligence ascertain, that such prescribing, administering, dispensing or selling will provide the person to whom or for whose use, or the owner of the animal for the use of which, such preparation is prescribed, administered, dispensed, or sold, within any forty-eight consecutive hours, with more than four grains of opium, or more than one-half grain of morphine or of any of its salts, or more than two grains of codeine or of any of its salts, or more than one-quarter of a grain of heroin or of any of its salts, or will provide such person or the owner of such animal, within forty-eight consecutive hours, with more than one preparation exempted by this section from the operation of this act.

(b) The medicinal preparation, or the liniment, ointment, or other preparation susceptible of external use only, prescribed, administered, dispensed or sold, shall contain, in addition to the narcotic drug in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the narcotic drug alone. Such preparation shall be prescribed, administered, compounded, dispensed and sold in good faith as a medicine, and not for the purpose of evading the provisions of this act.

Nothing in this section shall be construed to limit the kind and quantity of any narcotic drug that may be prescribed, administered, dispensed or sold, to any person or for the use of any person or animal, when it is prescribed, administered, compounded, dispensed or sold, in compliance with the general provisions of this act."

Herein in paragraphs (1) and (2) the Legislature set forth certain cases in which the named persons need not comply with the general requirements of the act in administering, selling, etc. narcotic drugs, providing such persons comply with the specific conditions contained in paragraphs (a) and (b), supra. For example, under the provisions of Section 12672-5 (1), General Code, "an apothecary, in good faith, may sell and dispense narcotic drugs to any person upon a written prescription of a physician, dentist, or veterinarian, provided it is properly executed, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the federal narcotic laws of the person prescribing, if he is required by those laws to be so registered."

However, under authority of Section 12672-7, supra, it appears that should an apothecary desire to sell at retail a medicinal preparation which contains not more than two grains of opium in one fluid ounce, he may so do without written prescription providing, of course, in making such sale he does not provide the person to whom the preparation is sold, within a period of forty-eight consecutive hours, with (a) more than four grains of opium, or (b) more than one exempted preparation. It would seem, therefore, that should the apothecary desire to sell a preparation containing more than two grains of opium in one fluid ounce, or within a period of forty-eight consecutive hours (a) more than four grains of opium, or (b) more than one exempted preparation, he may so do only on prescription and full compliance with the general provisions of the act regarding the sale of narcotic drugs. By its express provisions, Section 12672-7, supra, in nowise limits the kind or quantity of narcotic drugs which may be administered, sold, etc. in compliance with the general provisions of the act. In other words, the limitations contained in that section as to kind and quantity apply only to cases falling within the exemptions and conditions outlined therein.

Based on the foregoing, it is my opinion that:

(1) Except as otherwise specifically provided in the Uniform Narcotic Drug Act of Ohio a physician, dentist or veterinarian may administer or dispense, and an apothecary may sell at retail, the kind and quantity of narcotic drugs listed in paragraphs (1) and (2) of Section

12672-7, supra, without complying with the general requirements of said act, providing such persons meet the conditions set forth in paragraphs (a) and (b) of said section.

(2) When a physician, dentist or veterinarian administers or dispenses, or an apothecary sells, narcotic drugs of a kind not listed in Section 12672-7, supra, or in excess of the quantity permitted in said section, such persons must comply with the general requirements of the Uniform Narcotic Drug Act of Ohio.

Respectfully,

THOMAS J. HERBERT  
Attorney General.