

of this type. We pharmacists should not forget that unless we collectively and individually make strenuous efforts to convict the guilty, we as members of the drug trade, must suffer by being held in part responsible for the harm that may be done to the community at large.

UNIFORM STATE NARCOTIC LEGISLATION.*

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In considering the form of a uniform state narcotic law the first problem for solution is the extent of its scope. It is fundamental that the obligation imposed upon the persons affected by this law should not be duplicated in the state law to the extent that two sets of records or two different acts will be required to satisfy a similar requirement, Federal and state. In view of the fact that the Federal law relates to all commerce, both interstate and intrastate, should the states leave the entire field of the regulation of commerce to the Federal law and only include additional and supplemental provisions of a police character? We believe that this question must be answered in the negative for the following reasons, viz.: First, and principally, and as the practical reason, the states will not be denied a very important exercise of their police power. They will not be content to leave the regulation of the commerce in narcotic drugs solely to the Federal Government. We believe that any propaganda along this line would be resented and futile, and therefore, not wise. Second, this duplication of law and enforcement is inevitable under our own system of national, state and municipal regulation, and is general at the present time. Uniformity and harmony of such regulation is the object to be sought, in order that no conflict in such regulation may exist and no unnecessary or undue provisions may be included. Third, and providing always that the Federal and local regulation is uniform and harmonious, the additional state regulation insures greater efficiency and breadth of enforcement. Duplication of penalty under similar Federal and state laws is not a substantial basis for criticism. For, after all, a uniform and effective law necessary in the public interest and fair and just in application is a proper subject for state enactment. Fourth, and finally, it should be considered that, while the state cannot, constitutionally, void the operation of the Federal law by conflicting provisions, yet it may supplement the Federal law and occupy a ground beyond that circumscribed by Congress in the Federal law. These supplemental provisions will not only relate to matters not included in the Federal law, of a police character, such as the treatment of habitual users, but will, also, supplement to a greater or less degree, the Federal provisions regulating the commerce in these drugs. The history of the existing and proposed narcotic legislation to date substantiates the soundness of these reasons.

It is our opinion, therefore, that a uniform state narcotic law should be com-

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plete in itself and its scope should only be limited by the extent of the provisions deemed necessary and advisable to be included therein.

We now have to indicate several fundamental considerations which should, we believe, be held in mind in the drafting of a uniform state narcotic law:

(a) A uniform state narcotic law, as the name implies, should be in entire harmony with the Federal narcotic law. The record and official order form requirements, etc., of the Federal law, so far as they go, should be accepted as satisfactory under the state law. It is perfectly obvious that it is placing a needless and unwarranted burden upon the medical and pharmaceutical professions to require two different official order forms and two different and distinctive sets of records, Federal and state.

(b) A uniform state narcotic law should contain no state compulsory registration and taxation provisions for the reason that such provisions would be needless and unwarranted. The revenue form of the Federal narcotic law was only adopted by Congress in order to permit, constitutionally, the reaching of all commerce, impossible under an interstate commerce act. No such reason exists in the states. The registration information under the Federal law is open to the state officials. Such special taxation laws relating to foods and drugs enacted by the states are not, we believe, and generally speaking, equitable. The general funds of the several states should be used for the administration of these laws. We do not believe it advisable to provide in a uniform state narcotic law that only those persons who have registered under the Federal law may deal in and prescribe these drugs under the state law, because of possible constitutional questions which might thereby be raised, and for a very sufficient reason that such a limitation is entirely unnecessary. Every person who is legitimately dealing in or prescribing these drugs must register under the Federal law and no one else may so register.

(c) A uniform state narcotic law should follow the wording of the Federal narcotic law, so far as possible, in the interest of identity, clarity and simplicity. The development should always be toward the amendment of the Federal law, where such an amendment is advisable, as the law of the land, rather than toward building up state legislation without further reference to the Federal law. This is the general principle we believe should be followed so far as possible. Doubtless there will be sufficient reasons for instituting certain requirements first through the medium of state legislation. Certain other provisions of a police or local character will always be the special and exclusive province of the states.

(d) A uniform state narcotic law should include supplemental police provisions in the public interest. The following provisions might well be considered:

1. The regulation of the treatment of the habitual users of these drugs, including a provision for committal to some suitable institution, where such committal is in the public interest. The legitimate medical treatment of narcotic habitues should be affirmatively recognized and approved. It does not appear to be in the public interest or in the interest of humanity to search down these unfortunate individuals as criminals and a public menace and to arbitrarily confine them in institutions, and to arbitrarily cut off their supply of narcotics. Is not this rather

a medical question, to the larger degree, which must be so determined? We believe that it would be a fair and effective requirement to provide for a clinical record of the disposition of narcotic drugs to an habitual user, which record shall be open to the inspection of the State Board of Health. That the disposition of these drugs to habitual users for any other than a medicinal purpose should be prohibited. That due provision should be made for the medical treatment of such persons and for commitment to some suitable institution, public or private, where such commitment is deemed advisable in view of all the circumstances. The commitment provisions should be carefully circumscribed to provide against their abuse.

2. Provision should be made for the liability to the revocation or suspension of his license by a licensed physician, dentist, veterinary surgeon, nurse, or registered pharmacist, who is addicted to the use of these narcotic drugs in a manner contrary to the public welfare or who has been convicted of such a violation of this law that such revocation or suspension would be in the public interest. In keeping with the seriousness of such a revocation or suspension due provision should be made to properly protect the legitimate rights of the person charged, by providing for a fair hearing on a reasonable notice and, further, by providing for an appeal to a court of competent jurisdiction for a review of the sufficiency of the evidence on which the revocation or suspension was based.

3. Provision should be made to prohibit the false and fraudulent issuing or altering of a prescription or order for the purpose of avoiding the provisions of this law and to prohibit the false and fraudulent assumption of the title or name, in any manner, of a physician, dentist, veterinary surgeon or registered pharmacist, or the posing as a legitimate dealer in order to avoid the provisions of this law.

Other similar police provisions will, no doubt, be found advisable. We have only the time now to briefly indicate a few suggestions. We do not refer to the provisions included in the Federal law and regulations against the refilling of prescriptions, etc., which should be included, as a matter of course, in a uniform State narcotic law.

We believe that a uniform State narcotic law should exempt, as should, also, the Federal law, derivatives, preparations and manufactures of the affected narcotic drugs which do not possess narcotic or habit-forming qualities.

It would not appear to be necessary to include a special provision regulating the commerce in hypodermic needles and syringes, for the reasons that an effective regulation of the commerce in the narcotic drugs of themselves would include the legitimate use of the instruments by which they are administered. This expression of opinion is subject to correction if such regulation would not be sufficient.

Provisions relating to opium for smoking purposes and to the smuggling of these drugs into public institutions should be the subject of special and separate legislation.

The Federal narcotic law relates to opium and coca leaves, their manufactures, salts, derivatives and preparations. Several of the State laws relate, in addition, to chloral hydrate, cannabis indica, cannabis sativa, etc. It is certain

that no State should be asked or would be expected to eliminate these drugs from the existing laws, if their regulation is in the public interest. If there is a general need for such regulation the Federal law should be so amended. If there is a local need the local law should be maintained. Again, in several states, there are exceedingly strong special laws, such as cocaine laws. The advisability of disturbing these laws where no question of uniformity is involved would be questionable. Here, again, local conditions are a factor for consideration.

These and other problems will have to be met in the preparation of a uniform State narcotic law, which law will, no doubt, have to be remolded to a greater or less extent in respect to matters purely local and where no question of uniformity is involved. The purpose of such a uniform State law would be to provide certain uniform fundamental provisions, to raise the local law in each locality to the highest degree of efficiency, to eliminate unnecessary or unwarranted provisions, and, then, to leave to the individual states the solution of purely local questions.

That there is a need for a uniform state law will be apparent from an examination of the existing State narcotic laws, with their diversity and conflict of provisions. The problems underlying State narcotic legislation involving social, economic, medical, penal and general public welfare considerations, are so important and their proper solution so entirely in the public interest, that such an intelligent and co-operative study thereof and final expression in a uniform law cannot but prove distinctly valuable. State narcotic legislation will now be an important and active subject for consideration by the legislatures of the several states. Many well intentioned but ill-advised suggestions will be made. The value of general uniformity will perhaps be lost sight of. It behooves, therefore, the medical and pharmaceutical professions to give careful and thoughtful attention to the subject of uniform State narcotic legislation. A uniform law has already been suggested by the Chamber of Commerce of the United States of America, through its committee on uniform food and drug regulation, and by the National Association of Retail Druggists. The enlightened and public spirited co-operation of the medical and pharmaceutical professions in such beneficent matters reflects its greatest credit upon them. The Society of Medical Jurisprudence is peculiarly positioned and equipped to seriously and actively study this important problem to the end that an effective uniform state narcotic law may be enacted which will best serve the interests of the public, and the legitimate interests of the pharmaceutical and medical professions.

A special committee on narcotic legislation has been appointed by the president of the Society of Medical Jurisprudence, consisting of Charles Wesley Dunn and Doctors Reynold Webb Wilcox and Frank H. Daniels.