

No. 340

AN ACT

HB 2054

Amending the act of April 14, 1972 (P.L.233, No.64), entitled "An act relating to the manufacture, sale and possession of controlled substances, other drugs, devices and cosmetics; conferring powers on the courts and the secretary and Department of Health, and a newly created Pennsylvania Drug, Device and Cosmetic Board; establishing schedules of controlled substances; providing penalties; requiring registration of persons engaged in the drug trade and for the revocation or suspension of certain licenses and registrations; and repealing an act," further providing for prohibited acts and changing penalties for violations.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Clauses (13) and (14) of subsection (a), and subsections (b) and (f) of section 13, act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," clause (13) amended October 26, 1972 (P.L.1048, No.263) are amended to read:

Section 13. Prohibited Acts; Penalties.—(a) The following acts and the causing thereof within the Commonwealth are hereby prohibited:

* * *

(13) The sale, dispensing, distribution, prescription or gift by any practitioner otherwise authorized by law so to do of any controlled substance to any person known to such practitioner to be or whom such practitioner has reason to know is a drug dependent person, unless said drug is prescribed, administered, dispensed or given, for the cure or treatment of some malady other than drug dependency, except that the council, in accordance with Federal narcotic and food and drug laws, shall allocate the responsibility for approving and designating certain clinics, and shall provide or allocate the responsibility for providing regulations for such clinics at which controlled substances, including but not limited to methadone, may be prescribed, administered or dispensed for the treatment of drug dependency. This clause shall not prohibit any practitioner from prescribing, distributing or dispensing any controlled substance **[on a short term basis] for a period of time not to exceed fourteen days** pending confirmed admission of the patient to a hospital or rehabilitation center.

(14) The administration, dispensing, delivery, gift or prescription **of any controlled substance** by any practitioner **[otherwise authorized by law so to do of any controlled substance except after a physical or visual examination of the person or animal for whom said drugs are intended, said examination to be made at the time said prescription order is issued or at the time said 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.] *or professional assistant under the practitioner's direction and supervision unless done (i) in good faith in the course of his professional practice; (ii) within the scope of the patient relationship; (iii) in accordance with treatment principles accepted by a responsible segment of the medical profession.*

* * *

(b) Any person who violates any of the provisions of clauses (1) *through (13) and (15)* through (20) of subsection (a) shall be guilty of a misdemeanor, and except for clauses (4), (6), (7), (8), (9) and (19) shall, on conviction thereof, be sentenced to imprisonment not exceeding one year or to pay a fine not exceeding five thousand dollars (\$5,000), or both, and for clauses (4), (6), (7), (8), (9) and (19) shall, on conviction thereof, be sentenced to imprisonment not exceeding three years or to pay a fine not exceeding 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 not exceeding three years or to pay a fine not exceeding twenty-five thousand dollars (\$25,000), or both.

* * *

(f) Any person who violates *clause (14) or* clause (30) of subsection (a) with respect to:

(1) A controlled substance or counterfeit substance classified in Schedule I or II which is a narcotic drug, is guilty of a felony and upon conviction thereof shall be sentenced to imprisonment not exceeding fifteen years, or to pay a fine not exceeding two hundred fifty thousand dollars (\$250,000), or both or such larger amount as is sufficient to exhaust the assets utilized in and the profits obtained from the illegal activity.

(2) Any other controlled substance or counterfeit substance classified in Schedule I, II, or III, is guilty of a felony and upon conviction thereof shall be sentenced to imprisonment not exceeding five years, or to pay a fine not exceeding fifteen thousand dollars (\$15,000), or both.

(3) A controlled substance or counterfeit substance classified in Schedule IV, is guilty of a felony and upon conviction thereof shall be sentenced to imprisonment not exceeding three years, or to pay a fine not exceeding ten thousand dollars (\$10,000), or both.

(4) A controlled substance or counterfeit substance classified in Schedule V, is guilty of a misdemeanor and upon conviction thereof shall be sentenced to imprisonment not exceeding one year, or to pay a fine not exceeding five thousand dollars (\$5,000), or both.

* * *

Section 2. This act shall take effect immediately.

APPROVED—The 30th day of December, A. D. 1974.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly
No. 340.

A handwritten signature in cursive script, reading "C. McLaughlin Tucker". The signature is written in black ink and is positioned above the printed name of the Secretary of the Commonwealth.

Secretary of the Commonwealth.