CHAPTER IX
STATE BOARDS AND COMMISSIONS

SECTION 1
BOARD OF HEALTH

June 30, 1933.

RESIDENTIAL QUALIFICATIONS OF HEALTH UNIT DIRECTORS

Dear Sir:

I am in receipt of your letter of the 28th instant, making inquiry as to whether the residence requirements of House Bill 121, Ch. 16183, Acts of 1933, of the 1933 Legislature will apply to directors of health units provided for under Chapter 14906, Laws of Florida, Acts of 1931.

In reply I beg to say that in my opinion the residence requirements of House Bill 121 apply to such directors of health units.

No statute can impair the obligation of a contract, and if such director of a health unit has a valid contract for a definite term or period, said House Bill 121 would not apply until the expiration of such term. The said Act does apply to employments from day to day.

December 1, 1934.

NARCOTIC DRUG ACT—WHEN LICENSE MAY BE GRANTED

Dear Sir:

I have your letter in which you request my opinion as to who are and who are not entitled to a license under the terms of Chapter 16087, Laws of Florida, Acts of 1933, known as the “Uniform Narcotic Drug Act” (Section 3397 (1)-3397 (22) Compiled General Laws, 1934 Supplement).

Section 3 of the Act makes it unlawful for any person to manufacture or sell, or deal with or in, narcotic drugs without having first obtained a license from the State Board of Health. This Section by its terms does not apply to narcotic drugs dispensed or used by a registered physician, dentist or veterinarian in the course of his professional practice, and also does not apply to such drugs as are used for legitimate medical purposes.

Section 4 of the Act sets forth the qualifications of a licensee.

It is my opinion that any person, association or corporation who can meet the requirements of Paragraphs (a) and (b) of Section 4 of the Act and who is not excluded by Paragraph (c) of this Section, is en-
titled to a license when he makes application therefor to the State Board of Health, and when he otherwise complies with the terms of the Act.

I anticipate that you may experience some difficulty applying Paragraph (c) of Section 4 because it prohibits a license being issued to a person who has within five years been convicted of a willful violation of any law of the United States, or of any State, relating to opium, coca leaves, or other narcotic drugs "**". The word "willful" as used in this Section means with an evil intent, or legal malice or without reasonable ground for believing the Act to be lawful. 8 R. C. L. 64, 16 C. J. 80

If a person has been convicted, within five years of the time of making application for a license, of violating a narcotic law which makes a criminal intent necessary for conviction, he will not be entitled to receive a license. On the other hand, a person may be convicted of violating a narcotic law which does not make a criminal intent necessary for conviction. In such case a conviction would not be grounds for refusing him a license, if he otherwise meets the requirements of the law.

In each case where the applicant has been convicted, within five years from the time of making application for a license, of violating a narcotic law of the United States, or of any State, relating to opium, coca leaves, or other narcotic drugs, it will be necessary for the State Board of Health, in passing upon the application, to determine whether or not the conviction was for a "willful violation of any law **".

July 10, 1934.

NARCOTIC DRUG ACT—WHEN DRUG STORES MAY BE DENIED LICENSE ON GROUND OF IMMORAL CHARACTER

Dear Sir:

Replying to your favor of July 9th., I beg to advise that it appears from the provisions of Chapter 13757, Acts of 1929, that wholesale drug stores may be required to employ registered pharmacists when such wholesale drug stores manufacture or compound medicinal and/or chemical preparations.

You ask to be advised whether or not a person or the officers and managers of a corporation or firm could be denied a license to sell narcotics on the ground that they were not of good moral character, as they are required to be under the provisions of Section 4 of the Uniform Narcotic Act of 1933, if they willfully refuse to comply with the provisions of Chapter 13757 relative to the employment of a registered pharmacist where drugs and chemicals are compounded. "Good moral character" is a term that has been defined in many varied ways. The Act prohibited by the statutes involved in your inquiry may properly be termed mala prohibita in contradistinction to acts mala in se. A lone act mala in se might be under some circumstances sufficient upon which to hold the actor to be of bad character and immoral, but a person is not necessarily of immoral character because he may have on one or more occa-