Texas State Board of Pharmacy
Gunter Hotel
San Antonio, Texas

Gentlemen:

ATTENTION: W. H. Cousins

Opinion No. 0-3109
Re: Whether Pharmacy Board may confiscate certificate from foreign state of pharmacist not registered in Texas.

This will acknowledge receipt of your letter of January 30, 1941, requesting the opinion of this department upon the following matter:

"Does the Texas State Board of Pharmacy have the power or right to confiscate any certificate held by a person not registered as a pharmacist in Texas, but who is registered by some other state, and who is using his certificate issued by that state to practice pharmacy in Texas, displaying and exhibiting same as a subterfuge to the public?"

We have carefully examined the provisions of Chapter 8 of Title 71 of the Revised Civil Statutes relating to the practice of pharmacy in this State and the powers and duties of the State Board of Pharmacy; yet, we have been unable to discover that the Legislature has authorized the Board or its agents to confiscate a certificate to practice pharmacy issued by a foreign state and used by a pharmacist in Texas as a subterfuge to practice pharmacy in this State without registration.

Of course, as we pointed out in Opinion No. 0-2321, if a pharmacist registered in another state practices in this state without license from the State Board of Pharmacy, or does not operate under the direct supervision of one so registered, he will be committing a misdemeanor in violation of Article 758a of Vernon's Annotated Penal Code.
However, it is the opinion of this Department and you are advised that the State Board of Pharmacy has no power or authority to confiscate a certificate to practice pharmacy issued by another state used as a subterfuge by a pharmacist to practice in this State without registration.

Yours very truly,

By s/ James D. Smullen
James D. Smullen
Assistant

JDS;JS;hep

APPROVED FEB 4, 1941

Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

APPROVED
OPINION
COMMITTEE
BY BWB
CHAIRMAN