



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

September 21, 1948

Hon. James C. Jones, Executive Director
Veterans Affairs Commission
Austin, Texas

Opinion No. V-687

Re: Whether Article 3216a
repeals Article 3220-1,
V. C. S., and a related
question.

Dear Col. Jones:

We quote from your request for an opinion as follows:

"Sec. 1, Art. 3220-1, Revised Civil Statutes, provides for the creation of a Soldiers' and Sailors' Home, to be operated in conjunction with the Mens' Confederate Home in the City of Austin.

"Sec. 1 and 2, Art. 3216a, Revised Civil Statutes, provide for the admittance of senile persons to the Mens' Confederate Home.

"Questions:

"1. Inasmuch as Art. 3216a does not carry a savings clause, is it in conflict with Art. 3220-1?

"2. Does Art. 3216a repeal any portion of Art. 3220-1?

"3. If Art. 3220-1 is ruled still in effect, does it necessarily invalidate any part of Art. 3216a?

"4. If Question 3 is answered in the affirmative, would it be possible for the

State of Texas to enter into negotiations with the Federal Government for assistance in the support and maintenance of the Mens' Confederate Home for Soldiers and Sailors?"

The statutes to which you have referred are not incompatible, and an examination of their provisions and of the legislative history of the statutes will serve to reconcile them and answer your questions.

Authority for the original creation of the Confederate Home is found in Article III, Section 51, of the Texas Constitution, and in Acts 1891, page 14, which is codified in Vernon's Civil Statutes as Article 3213, et seq. Thereafter, by Acts 1939, 46th Leg., Ch. 2, page 314, the Legislature authorized the establishment of the Soldiers' and Sailors' Home, which, from its very terms, "shall be operated in conjunction with and as a part of the Confederate Home at Austin, Texas."

The Act creating the Soldiers' and Sailors' Home authorized the admission of veterans of the Spanish American War and of World War I to such Home, it being located in and a part of the Confederate Home. Thus the eligibility for admission to such Home was enlarged by the Act establishing the Soldiers' and Sailors' Home.

The admission of senile patients to the Confederate Home, which is inclusive of the Soldiers' and Sailors' Home, was authorized by Acts 1943, 48th Leg., Ch. 16, page 18, codified in Vernon's Civil Statutes as Art. 3216a. That Act in no way altered the legislative provisions for admission of veterans to the Home.

The hospital facilities for senile patients were inadequate, and authority for the admission of such patients to the Confederate Home was indicated for the temporary relief of the situation until adequate and appropriate facilities could be furnished for such senile patients. This is borne out by Section 6 of Article 3216a, which authorized such admission of senile patients to the Confederate Home, as follows:

"Section 6. The preceding provisions of this Act are cumulative of existing law governing the Texas Confederate Home for Men, and it is the legislative intent that such home revert to the purposes for which it has been heretofore dedicated, when other facilities for the care of

the senile aged patients, contemplated by this Act, are provided."

This is further substantiated by the provisions of the emergency clause which reads, in part:

"Section 7. The fact that there are now being maintained in the State Hospitals of Texas many senile persons who should be segregated from other mentally ill persons, and the further fact that there are many senile persons in the jails of Texas awaiting admission into State Hospitals for maintenance and for whom there is not now adequate room in State Hospitals, creates an emergency. . . ."

Thus, senile aged patients became additional eligibles for admission to the Confederate Home, there being no other facilities for their custody and treatment.

Therefore, Article 3216a, V. C. S., which authorizes the admission of senile aged patients to the Confederate Home is not in conflict with nor does it repeal any portion of Article 3220-1, V. C. S., establishing the Soldiers' and Sailors' Home, as an adjunct of the Confederate Home, and the latter statute is still in effect.

With regard to your last question referring to the possibility of entering into negotiations between the State of Texas and the Federal Government to secure assistance for the support and maintenance of the Soldiers' and Sailors' Home, we refer you to the provisions of Article 3220-1, V. C. S., being Section 9 thereof, which clearly authorizes such negotiations, as follows:

"Section 9. The Board of Control is hereby authorized to enter into negotiations and make any agreements with the United States Government for assistance in the support and maintenance of said Soldiers' and Sailors' Home."

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SUMMARY

Article 3216a, V. C. S., does not repeal nor is it in conflict with Article 3220-1, V. C. S.

The Board of Control is authorized to enter into negotiations with the United States Government for assistance in the support and maintenance of the Soldiers' and Sailors' Home. Article 3220-1, Section 9, V. C. S.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By

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APPROVED:

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