

Opinion No. 55-6213

June 30, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Honorable M. S. Smith, State Representative, P. O. Box 624, Clovis, New Mexico

Receipt is acknowledged of your letter dated June 20th, in which you request an opinion as to whether or not the advertisement which appears in the Carlsbad Current Argus which you enclosed, by Dr. C. B. Byers, violates the Dentists Law in any manner. You state that Dr. Byers lives in El Paso, but advertises in the Carlsbad paper, and although you do not specifically state that this doctor is not licensed to practice in New Mexico, he is licensed to practice dentistry in the State of Texas.

Under sub-section 1, 9, 10 and A of Section 67-4-10 N.M.S.A., 1953, the Dental Board may suspend or revoke the license or may refuse to issue a license in the State of New Mexico to any applicant or any licensed dentist. However, this Dr. Byers is not an applicant for a dentist's license in New Mexico nor is he a licensed dentist in New Mexico.

Further, I find no other statute under which this doctor could be prosecuted either criminally or a civil suit filed against him. Nor can he be enjoined if his advertisement is merely an announcement. However, in the event of a continuous pattern of advertisement, we suggest that the Texas Dental Board should take action.

It is therefore, the opinion of this office that since Dr. Byers is out of the jurisdiction of the State of New Mexico that his advertisement is merely an announcement and that it violates no law of New Mexico, however, it is possible that your board call this to the attention of the Texas Dental Board, to this practice.

Trusting that this fully answers your inquiry, I remain

By: Hilario Rubio

Assistant Attorney General