

**Opinion No. 43-4330**

July 7, 1943

**BY:** EDWARD P. CHASE, Attorney General

**TO:** James R. Scott, M. D., Director, Department of Public Health, Santa Fe, New Mexico

I have your letter of July 2, 1943, wherein you inquire whether or not a certificate which states:

"\* \* \* is free from contagious or infectious disease. Wasserman report July 2.

(signed) \_\_\_\_, M. D."

is in violation of Section (c), Page 19 of the State Department of Public Health regulations governing the control of communicable diseases.

The above mentioned regulation provides as follows:

"Physicians, health officers, and all other persons are prohibited from issuing certificates of freedom from venereal disease; provided, this rule shall not prevent the issuance of necessary statements of freedom from infectious diseases written in such forms, or given under such safeguards, that their use in solicitation for sexual intercourse would be impossible."

The test, as set out by such regulation, is whether or not such certificates may possibly be used in solicitation for sexual intercourse. The regulation also prohibits certificates of freedom from venereal disease. The above mentioned certificate shows on its face to be based solely on a Wasserman report of a certain date. It is common knowledge that the Wasserman report merely pertains to syphilis, therefore, in effect, the above mentioned certificate is merely a certificate of freedom from syphilis, and is specifically prohibited.

Hoping that the above fully answers your questions, I remain

By HARRY L. BIGBEE

Asst. Atty. General