

035
NO. 3031

HEALTH CERTIFICATE OF MAN PROCURING
MARRIAGE LICENSE

Opinion construing Article 4640c, R. C. S.,
and holding:

1. Legislature did not specify method by
which "reputable licensed physician" should
determine finding.

2. County Clerk not authorized or required
to look beyond certificate of physician as to
freedom from venereal disease of man seeking
marriage license.

OFFICE OF THE ATTORNEY GENERAL

January 24, 1939

Hon. A. J. Bryan, Jr.
Criminal District Attorney
Hillsboro, Texas

Dear Sir:

Opinion No. O-35 ✓
Re: Article 4640c - Should a doctor
make a blood test before certifi-
fying a man to be free from
venereal disease for a marriage
license.

This will acknowledge receipt of your letter of
January 4th, 1939, addressed to the Attorney General, which
has been referred to the writer for consideration and reply.

You request an opinion of this department in re-
sponse to the following question:

"Where a party is seeking a health certi-
ficate in order to get his marriage license, is
a doctor required to make a blood test?"

Your attention is directed to Article 4640c, Re-
vised Civil Statutes of Texas, which provides as follows:

"Before the county clerk shall issue any
marriage license, the man shall produce a cer-
tificate from a reputable licensed physician to
show that he is free from all venereal diseases."

There having been no court decisions construing the above ar-
ticle, we are confined to the construction and the meaning of
its words.

It will be noted the legislature did not specify or particularize any certain means or method by which the "reputable licensed physician" should determine his findings. There is no definite test prescribed. The physician making the certificate must, under the terms of the enactment, be "reputable" and "licensed". When the county clerk is cognizant of these two things, it is our opinion his inquiry is ended. Nowhere does the legislature authorize, or require, the clerk to go beyond the certificate itself. Accordingly, if the certificate be issued by a "reputable licensed physician" and if it certifies the applicant for license to be "free from all venereal diseases", if the other statutory requirements be met, it is the duty of the clerk to forthwith issue the license.

Letter opinion No. 0-35, written January 13, 1939, is withdrawn and this one substituted therefor.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

Benjamin Woodall

Assistant

BW:AW

This opinion has been considered in conference, approved, and ordered recorded.

Gerald C. Mann

GERALD C. MANN
ATTORNEY GENERAL OF TEXAS