

# The Mexican-American War Brings Regulation on Drug Importation



★ Concerns over medicine given to soldiers during the Mexican American War brings the first federal drug law and expands the role of Customs in assuring the purity of drugs. Painting by Carl Nebel of the Battle of Palo Alto during the Mexican-American War, published in *The War Between the United States and Mexico*, Illustrated (1851)

Today CBP plays an important role in preventing the importation of fraudulent prescription and nonprescription drugs and medical devices into the United States. These include unorthodox “cures” for medical conditions. The how and why the federal government first took on this responsibility dates to an important chapter in American history and was originally delegated to Customs inspectors, whose modern day successors are CBP officers.

From the founding of the nation and

throughout the first half of the 19th century, drugs were not regulated by the federal government. Problems with drug impurity were episodic, and when occurring, they were usually contained within a state or a region. The usual reaction to a case involving impure or bogus medicine was a call for reform at state houses with individual states instituting laws governing aspects of drug manufacture and trade, but these regulations were spotty at best. The situation changed during the Mexican-American War, which began in 1846 and

ended in 1848.

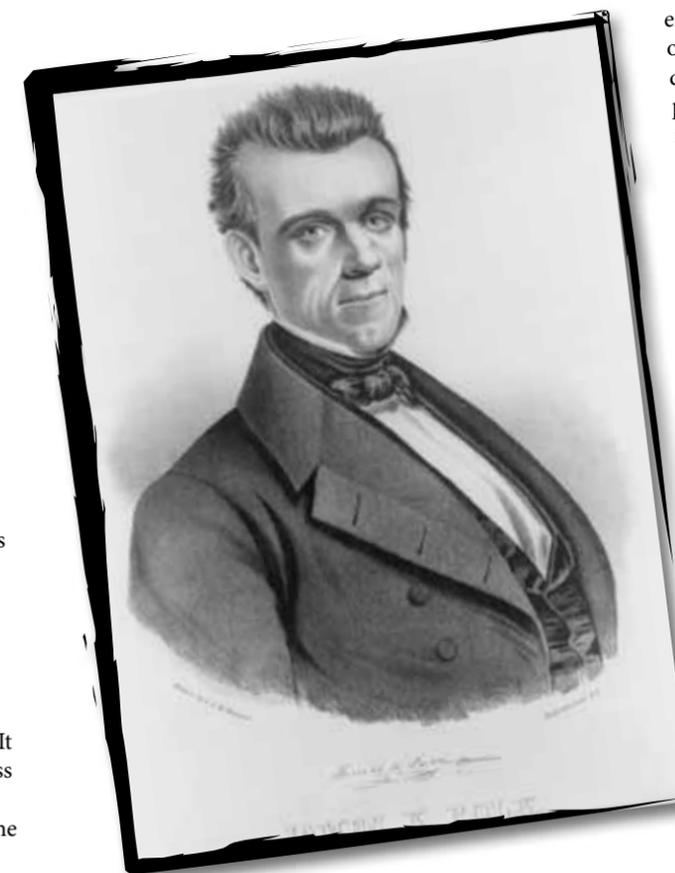
During the course of the war, 1,773 Americans were killed in action with an additional 13,271 dying from other causes. This high number of collateral casualties shocked the nation, and calls came from across America for an investigation. Although the high death rate had many contributing factors from compromised food provision and poor living conditions to infectious diseases, public outrage focused on the medical care given to soldiers. It was concluded that adulterated drugs supplied to

the Army had caused the large numbers of deaths among soldiers.

This enraged the public, and the outcry led Congress to pass the Drug Importation Act of 1848, the first federal drug law. It was very limited in scope and addressed only the purity of drugs imported into the United States. Congress charged Customs with enforcing the law. Special examiners were appointed at six major ports of entry—New York, Boston, Philadelphia, Baltimore, Charleston, and New Orleans. They checked the “quality, purity, and fitness for medical purposes” of imported drugs using the major pharmacopoeias (publications describing drugs) and dispensaries for standards. The law offered examiners an annual salary of \$1,000. Collectors at other ports were authorized to secure the services of “some reasonable person” to test the purity of drugs. A year later, the New York examiner received a pay increase of \$2,000 per year and was authorized to hire a clerk. It was not until 1856 that Congress authorized the first special examiner on the west coast at the San Francisco port.

The law was initially successful, but after two years its effectiveness was soon undercut by political cronyism that filled the special examiner posts with unqualified personnel. A lack of proper enforcement at some ports also arose from ineffective standards and methods of analysis. During the Lincoln administration, Dr. Edward R. Squibb, a physician and founder of a drug company, lobbied for stricter enforcement of the law. He presented a letter in person to the Treasury Department, which oversaw Customs during the 19th century. Unfortunately his efforts did not change practice, and Treasury Secretary Salmon Chase and his successors continued to exercise political prerogative in the appointment of examiners. The Drug Enforcement Act stayed on the books, but was only a paper tiger in policing the international drug trade.

Beginning in the 1870s, Congress allowed the Treasury Department to establish independent standards for drug purity under its authority to examine goods provided by tariff legislation. This



★ The Drug Importation Act was signed into law on June 26, 1848, by President James K. Polk.

change increased incentives to enforce drug quality regulations. In 1884, the Treasury Department revised the general regulations under the Customs and Navigation Laws which dictated how Customs officials would implement the law. The general regulations established percentages and “strength[s] being permissible as safe and proper for medicine and useful for chemical manufacturing.” Among the substances listed were opium “when affording nine percent of pure morphine” and cinchona bark “when affording one percent of pure quinine.”

Shortly after the turn of the 20th century, Congress passed the Biologics Control Act to ensure purity and safety of serums, vaccines, and similar products used

to prevent or treat diseases in humans. This act was part of a larger reform movement that was examining not just drugs, but also food processing.

A new era was also arriving in federal service that improved enforcement. The assassination of President James Garfield by a disgruntled job seeker in 1883 prompted the implementation of the federal civil service, which transformed Customs inspectors and examiners from recipients of patronage to professionals who were placed in their positions because they possessed the requisite knowledge and skill to perform their duties.

By 1890, the position of special examiner of drugs was being phased out. The final appointment of a special examiner of drugs occurred on Dec. 1, 1897, and by this time, the appointee was chosen for “his breadth of knowledge in pharmacology, botany, and pharmaceutical chemistry.” As special examiner positions were vacated, they were replaced by examiner-chemists.

The roles of the examiner-chemists were once again expanded substantially by new tariff legislation. With this development also came the need for standardization, and in 1916, Customs held its first Conference of Chiefs of Customs Laboratories. This conference called for a host

of reforms, including a central clearing house, better sampling procedures, a methods manual, and civil service status for all laboratory personnel.

Unfortunately, another war derailed the momentum of reform, but incremental improvements were achieved during World War I and throughout the 1920s. A second conference of chief chemists was held in 1931, which renewed the reform movement. In 1935, the position of consulting chemist to the secretary of the Treasury was created. This was followed by the establishment of a division of laboratories in 1936. This reorganization removed the laboratories from the jurisdiction of the appraisers and collectors and ushered in an era of modern and standardized practices that CBP continues today. ■

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