



**THE ATTORNEY GENERAL  
OF TEXAS  
AUSTIN, TEXAS**

**PRICE DANIEL  
ATTORNEY GENERAL**

April 17, 1948

Hon. Geo. W. Cox, M. D.  
State Health Officer  
Department of Health  
Austin, Texas

Opinion No. V-548

Re: Legality of the minimum standards of operation and maintenance of hospitals receiving Federal aid under Public Law 725, 79th Congress.

Dear Sir:

Your request for an opinion states:

"The United States Public Health Service has requested an Attorney General's opinion relative to legality of the minimum standards of operation and maintenance of hospitals receiving federal aid under Public Law 725 of the 79th Congress. Section 623 (d) sets up the requirements for minimum standards of operation and maintenance for such federally aided projects.

"The standards set up by the State Board of Health's construction program are included in the Texas State Plan for Hospital Construction, copy of which is forwarded herewith."

Subdivision (a), Section 623, Public Law 725 of the 79th Congress, is, in part, as follows:

". . . Such State plan must --

"(7) provide minimum standards (to be fixed in the discretion of the State) for the maintenance and operation of hospitals which receive Federal aid under this part; . . ."

Subdivision (d) of the same Section is as fol-

lows:

"If any State, prior to July 1, 1948, has not enacted legislation providing that compliance with minimum standards of maintenance and operation shall be required in the case of hospitals which shall have received federal aid under this title, such State shall not be entitled to any further allotments under Section 624."

H. B. 503, 50th Legislature 1947, is known as the "Texas Hospital Survey and Construction Act" and was enacted in compliance with Public Law 725, 79th Congress. It provides specifically that the State Health Officer, with the advice of the Hospital Advisory Council, is authorized and directed to provide such methods of administration, appoint a Director and other personnel of the Division, and take such other action as may be necessary to comply with the requirements of the Federal Act. The promulgation of minimum standards is a necessary prerequisite to receipt of further aid. Pursuant to such authority and in view of such requirement a State Plan for the construction of hospitals was promulgated and approved by the State Board of Health on the 8th day of September, 1947, and by the Hospital Advisory Council on September 15, 1947. In such plan, minimum standards of operation and maintenance are set forth on page 73, et seq., and designated therein as Exhibit G. It is specifically provided that all institutions receiving federal aid under Public Law 725 shall comply with the minimum standards of operation and maintenance therein set forth. No question is here raised as to the power of the Legislature to delegate this rule-making power.

Although H. B. 503 does not specifically provide for the promulgation of rules for the operation and maintenance for federally aided projects, nevertheless the intent of H. B. 503, taken as a whole, is to comply in every respect with the Federal Hospital Survey and Construction Act. The Texas statute, by implication delegates to the State Health officer power and duty to promulgate such rules. It is, therefore, the opinion of this Department that H. B. 503, 50th Legislature 1947, is sufficiently broad in scope to provide ample authority for the promulgation of the minimum standards of operation and maintenance as set forth in the State Plan for the construction of Texas hospitals.

Hon. Geo. W. Cox, M. D., page 3 (V-548)

Having complied with such requirement, the State of Texas thus fulfills the minimum standard provision of Public Law 725.

SUMMARY

H. B. 503, 50th Legislature 1947, is sufficiently broad in scope to authorize the promulgation of the standards of operation and maintenance as provided in the State Plan for hospital construction in Texas and are legally sufficient to comply with Public Law 725, 79th Congress.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By

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BW:mw

APPROVED:

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