



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

March 21, 1988

Honorable James A. Hensarling
Criminal District Attorney
115 W. Main
Edna, Texas 77957

LO-88-33

Re: Provision of Health Care Services by Jackson County
Hospital District and Jackson County (RQ-1235)

Dear Mr. Hensarling:

You ask the following questions:

1. Is the Jackson County Hospital District, or Jackson County required to offer such health services as immunizations, prenatal services, free drug prescriptions or physician services to the needy inhabitants of the Hospital District?

2. If neither the Jackson County Hospital District nor Jackson County is required to offer such health services, may the Hospital District, if it chooses, or Jackson County, if it chooses, provide such health care services to the needy inhabitants of the District?

3. May Jackson County use county funds, taxes or other, to contract with the Jackson County Hospital District to provide such health care services to the needy inhabitants of the District?

Article IX, section 9, of the Texas Constitution requires that a hospital district provide "medical and hospital care for its needy inhabitants." See also Acts 1979, 66th Leg., ch. 275, at 586 (authorizing creation of Jackson County Hospital District). Therefore, the Jackson County Hospital District is required to provide medical care for indigents who are residents of Jackson County.

You ask us whether a hospital district is required or authorized to provide a number of specific services to its indigent inhabitants. The act authorizing the creation of the Jackson County Hospital District provides that the district "shall assume full responsibility for providing medical and hospital care for its needy inhabitants." Acts 1979, 66th Leg., ch. 275, §20, at 598. The enabling statute is no more specific than the constitution in defining what services the district must provide to indigent residents of the county. Therefore, it is within the sound discretion of the governing board of the hospital district to determine what health-care services are necessary and what services are proper for the hospital district to provide for the needy inhabitants of Jackson County.¹ See Attorney General Opinions M-1154 (1972); M-85 (1967); C-334 (1964). See generally Attorney General Opinions JM-815, JM-746 (1987).

You also ask whether Jackson County is authorized to provide certain types of medical care. Both article IX, section 9, of the Texas Constitution and the enabling statute for the Jackson County Hospital District provide that the county may not "levy taxes or issue bond or other obligations for hospital purposes or for providing medical care" within the boundaries of the hospital district. Those provisions must be read, however, in light of article IX, section 13, of the Texas Constitution, which was enacted after article IX, section 9. Article IX, section 13, provides:

Notwithstanding any other section of this article, the Legislature in providing for the creation, establishment, maintenance and operation of a hospital district, shall not be required to provide that such district shall assume full responsibility for the establishment, maintenance, support, or operation of mental health services or mental retardation services including the operation of any community mental health centers, community mental retardation centers or

1. Article IX, section 9A, of the Texas Constitution gives the legislature authority to determine what services a hospital district must provide. However, the legislature has not yet enacted any legislation pursuant to article IX, section 9A.

community mental health and mental retardation centers which may exist or be thereafter established within the boundaries of such district, nor shall the Legislature be required to provide that such district shall assume full responsibility of public health department units and clinics and related public health activities or services, and the Legislature shall not be required to restrict the power of any municipality or political subdivision to levy taxes or issue bonds or other obligations or to expend public moneys for the establishment, maintenance, support, or operation of mental health services, mental retardation services, public health units or clinics or related public health activities or services or the operation of such community mental health or mental retardation centers within the boundaries of the hospital districts; and unless a statute creating a hospital district shall expressly prohibit participation by any entity other than the hospital district in the establishment, maintenance, or support of mental health services, mental retardation services, public health units or clinics or related public health activities within or partly within the boundaries of any hospital district, any municipality or any other political subdivision or state-supported entity within the hospital district may participate in the establishment, maintenance, and support of mental health services, mental retardation services, public health units and clinics and related public health activities and may levy taxes, issue bonds or other obligations, and expend public moneys for such purposes as provided by law.
(Emphasis added.)

The statute enabling the creation of the Jackson County Hospital District does not expressly prohibit political subdivisions within the hospital district from participating in the establishment or operation of the services listed in article IX, section 13. See Attorney General Opinion H-454 (1974). Therefore, Jackson County may expend money for such services if it is otherwise authorized to do so. See, e.g., V.T.C.S. art. 4436b, §§4.07, 4.09. See also Canales v. Laughlin, 214 S.W.2d 451, 453 (Tex. 1948) (commissioners courts have only the

powers that are conferred on them by the constitution and statutes, either expressly or by necessary implication).

Article 4414b, section 1.07, V.T.C.S., authorizes counties to spend money for public health. If a county has created a local health department or appointed a health authority under article 4436b, it is required to provide the following services.

(b) A public health district and a local health department shall provide at least:

(1) personal health promotion and maintenance services;

(2) infectious disease control and prevention services;

(3) environmental and consumer health programs for enforcement of health and safety laws related to food, water, waste control, general sanitation, and vector control;

(4) public health education and information services;

(5) laboratory services; and

(6) administrative services.

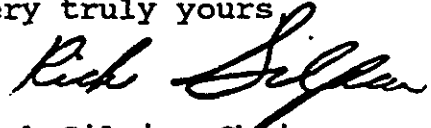
V.T.C.S. art. 4436b, §4.09b. Therefore, Jackson County is authorized to spend money on public health. Also, if Jackson County has created a local health department or if it has appointed a health authority, it is required to provide the services listed in section 4.09(b) of article 4436b. The determination of whether certain types of health care constitute "public health services" or whether certain types of health care services are within the broad description set out in section 4.09(b) is a fact question for the county to resolve. Also, please note that the recipients of public health services would not necessarily be limited to indigents. See V.T.C.S. art. 4414c.

You also ask whether Jackson County can contract with the Jackson County Hospital District to provide health-care services. The Interlocal Cooperation Act authorizes local governments to contract for another local government to perform for it a service which all the parties "are legally authorized to perform." V.T.C.S.

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art. 4413(32c), §4(b). Clearly a hospital district and a county have overlapping authority in the area of health care. Under article 4413(32c), then, a county could contract with a hospital district to provide services that both are authorized to provide.

Very truly yours



Rick Gilpin, Chairman
Opinion Committee

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