



**Office of the Attorney General
State of Texas**

DAN MORALES
ATTORNEY GENERAL

November 10, 1993

Honorable John W. Berry
Karnes County Attorney
101 North Panna Maria, Suite 10
Karnes City, Texas 78118

Letter Opinion No. 93-100

Re: Which health care services the Karnes County Hospital District is responsible for providing to indigent residents incarcerated in the Karnes County Jail (ID# 22054)

Dear Mr. Berry:

You refer to Attorney General Opinion DM-225 (1993), which dealt generally with liability for costs of health care provided to indigent inmates of the Karnes County Jail. Your concern is with the portion of the opinion concluding that the Karnes County Hospital District is liable for costs of health care for such inmates who are residents of the district. Specifically, you ask for clarification as to what sorts of health care the district would be responsible for. You point to Health and Safety Code section 61.028, noting that it was not mentioned in Attorney General Opinion DM-225, and suggest that the district would be liable only for the health care services listed in that section.

Section 61.028 does not, by its own terms, apply to the provision of health care services by a hospital district, such as the Karnes County Hospital District. It applies rather to the provision of services by a *county*, where the receiver of care is not a resident of a hospital district or public hospital. *See also* Health & Safety Code § 61.021 ("subchapter applies to health care services and assistance provided to a person who does not reside in the service area of a public hospital or hospital district"). We note that the requirements of section 61.028 regarding provision of health care services also apply to a public hospital, pursuant to section 61.054 of the code.

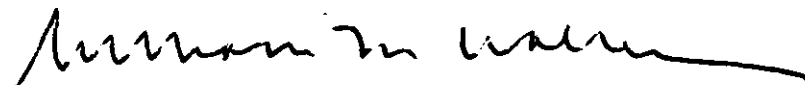
The provision applicable to the provision of health care services by a hospital district, the area of your concern, is section 61.055 of the code. In contrast to section 61.028, which lists specific kinds of services counties or public hospitals are to provide, section 61.055 states only that "[a] hospital district shall provide the health care services required under the Texas Constitution and the statute creating the district." The statute creating the Karnes County Hospital District is not particularly instructive as to the specific services the district is to provide, but appears to confer considerable discretion on the district's board of directors and administrator in this regard. *See* Acts 1969, 61st Leg., ch. 591, §§ 6, 10, at 1766-69. The applicable constitutional provision states with regard to the health care to be provided by a hospital district only that a district when created "shall assume full responsibility for providing medical and hospital care for its needy inhabitants." Tex. Const. art. IX, § 9.

In regard to a hospital district's responsibilities, Attorney General Opinion DM-37 (1991) noted that "[i]n the absence of express guidance in the Texas Constitution or statutes . . . this office has repeatedly refrained from defining 'health care services' or 'medical and hospital care' with greater specificity." Attorney General Opinion DM-37 at 5. Attorney General Opinion JM-1052 (1989) concluded in this regard that "it is the responsibility of the board of directors of a hospital district to determine what medical care is to be provided." Attorney General Opinion JM-1052 at 4; *see also* Attorney General Opinions M-1154 (1972), M-85 (1967), and other authorities cited in Attorney General Opinion DM-37. Accordingly, we do not attempt to resolve the question which particular health care services the Karnes County Hospital District is responsible for providing to its indigent residents incarcerated in the Karnes County Jail.

S U M M A R Y

The question of which health care services the Karnes County Hospital District is responsible for providing indigent residents of the district is to be determined in the first instance by the board of directors of the district.

Yours very truly,



William M. Walker
Assistant Attorney General
Opinion Committee