



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable A. E. Hickerson
County Auditor
Montgomery County
Conroe, Texas

Dear Sir:

Opinion No. 0-2422
Re: County hospitals - Powers of
board - commissioners' courts

Your request for opinion has been received and carefully considered by this department. We quote from your request as follows:

"Please refer to Article 4480 Powers of the Board of Managers of County Hospital; and especially referring to paragraph one (1) which reads as follows:

"The board shall also appoint a staff of visiting physicians who shall serve without pay from the county, and who shall visit and treat hospital patients at the request either of the managers or of the superintendent."

"Please advise whether the County is authorized, or the Board of Managers is authorized, to allow claims of physicians and surgeons for work done of Charity Patients while in the hospital."

Article 4478, Vernon's Annotated Texas Civil Statutes, authorizes the establishment of county hospitals after an election to be held in the manner directed by the article, and gives to the commissioners' court certain powers and duties with respect to the county hospital.

Article 4479, Vernon's Annotated Texas Civil Statutes, as amended, provides for the appointment of a Board of Managers

of the county hospital to be appointed by the commissioners' court.

Article 4480, Vernon's Annotated Texas Civil Statutes, defining the powers of the Board of Managers, reads as follows:

"The board of managers shall elect from among its members a president, and one or more vice-presidents and a secretary and a treasurer. It shall appoint a superintendent of the hospital who shall hold office at the pleasure of said board. Said superintendent shall not be a member of the board, and shall be a qualified practitioner of medicine, or be specially trained for work of such character.

"The board shall also appoint a staff of visiting physicians who shall serve without pay from the county, and who shall visit and treat hospital patients at the request either of the managers or of the superintendent.

"Said board shall fix the salaries of the superintendent and all other officers and employees within the limit of the appropriation made therefor by the commissioners court, and such salaries shall be compensation in full for all services rendered. The board shall determine the amount of time required to be spent at the hospital by said superintendent in the discharge of his duties. The board shall have the general management and control of the said hospital, grounds, buildings, officers and employees thereof; of the inmates therein, and of all matters relating to the government, discipline, contracts and fiscal concerns thereof; and make such rules and regulations as may seem to them necessary for carrying out the purposes of such hospital. They shall maintain an effective inspection of said hospital and keep themselves informed of the affairs and management thereof; shall meet at the hospital at least once in every month, and at such other times as may be prescribed in the by-laws; and shall hold an annual meeting at least three weeks prior to the meeting of the commissioners court at which appropriations for the ensuing year are to be considered."
(Underscoring ours)

Article 4481, Vernon's Annotated Texas Civil Statutes, reads as follows:

"The board of managers may also establish and operate an outpatient department or free dispensary and clinic at the hospital or in the city nearest to which the hospital is located, with branch dispensaries or clinics in every city or town in the county of five thousand population and over. They shall appoint a physician or physicians, who shall serve at such dispensaries or clinics, and shall determine the amount of time required to be spent at such dispensaries or clinics by such physicians, and shall fix the salaries, if any, of such physicians. Said board shall also appoint one or more trained visiting nurses to serve in connection with each such dispensary or clinic, and in connection with the hospital, and shall fix their salaries within the limits of the appropriation made therefor by the commissioners court." (Underlining ours)

Article 4485, Vernon's Annotated Texas Civil Statutes, as follows:

"The superintendent shall be the chief executive officer of the hospital, but shall at all times be subject to the by-laws, rules and regulations thereof, and to the powers of the board of managers.

"He shall, with the consent of the board of managers, equip the hospital with all necessary furniture, appliances, fixtures and all other needed facilities for the care and treatment of patients, and for the use of officers and employees thereof, and shall purchase all necessary supplies, not exceeding the amount provided for such purposes by the commissioners court.

"He shall have general supervision and control of the records, accounts and buildings of the hospital, and all internal affairs, and maintain discipline therein, and enforce compliance with and obedience to all rules, by-laws and regulations adopted by the board of managers for the government, discipline and management of said hospital and the employees and inmates thereof. He shall make such further rules,

regulations and orders as he may deem necessary, not inconsistent with law or with the rules, regulations and directions of the board of managers. He shall, with the consent of the board of managers, appoint such resident officers and such employees as he may think proper and necessary for the efficient performance of the business of the hospital, and prescribe their duties; and for cause stated in writing, he may discharge any such officer or employee at his discretion, after giving such officer or employee an opportunity to be heard.

"He shall cause proper accounts and records of the business and operations of the hospital to be kept regularly from day to day in books and on records provided for that purpose; and shall see that such accounts and records are correctly made up for the annual report as required by this law, and present the same to the board of managers who shall incorporate them in their report to the commissioners court.

"He shall receive into the hospital, under the general direction of the board of managers, in order of application, or according to the urgency of need of treatment, any person found to be suffering from any illness, disease or injury, who has been an actual resident and inhabitant of the county for a period of at least one year prior to his application for admission to said hospital. He shall also receive into the hospital, patients sent by the commissioners court of any adjacent county, which has contracted with the board for the care and treatment of its sick and diseased and injured persons, resident in such counties for a period of at least one year. Such patients shall not be received and cared for unless there is sufficient provision for the care of the sick, diseased and injured of the county in which the hospital is situated. Said superintendent shall cause to be kept proper accounts and records of the admission of all patients, their names, age, sex, color, marital condition, residence, occupation and place of past employment.

"He shall cause a careful examination to be made of the physical condition of all persons admitted to

the hospital and provide for the treatment of each such patient according to his need; and shall cause a record to be kept of the condition of each patient when admitted and from time to time thereafter.

"He shall temporarily or permanently discharge from said hospital any patient who shall wilfully or habitually violate the rules thereof; or who is found not to be sick, diseased or injured; or who is found to have recovered therefrom; or who for any other reason is no longer a suitable patient for treatment therein; and shall make a full report thereof at the next meeting of the board, and the said board shall make such final disposition of the case as they may think proper. From the decision of the board of managers there shall be no appeal.

"He shall collect and receive all monies due the hospital, keep an accurate account of the same, report the same at the monthly meeting of the board of managers, and transmit the same to the county collector within ten days after such meeting.

"He shall before entering upon the discharge of his duties, give a bond in such sum as the board of managers may determine, to secure the faithful performance of the duties of his office."

Article 4486, Vernon's Annotated Texas Civil Statutes, reads as follows:

"Any resident of the county in which the hospital is situated, desiring treatment in such hospital, may apply in person to the superintendent or to any reputable physician for examination, and such physician, if he finds that such person is suffering from any illness, disease or injury may apply to the superintendent of the hospital for his admission. Blank forms for such application shall be provided by the hospital and shall be forwarded by the superintendent thereof free to any reputable physician in the county upon request. So far as practicable, applications for admission to the hospital shall be made upon such forms. The superintendent upon receipt of such application, if it appears therefrom that the patient is suffering from illness, disease or injury, and if there be a vacancy in said hospital, shall

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notify the person named in such application to appear in person at the hospital. If, upon personal examination of such patient, or of any patient applying in person for admission, the superintendent is satisfied that such person is suffering from any illness, disease or injury, he shall admit him to the hospital as a patient. All such applications shall state whether, in the judgment of the physician, the person is able to pay in whole or in part for his care and treatment while at the hospital. Every application shall be filed and recorded in a book kept for that purpose in the order of its receipt. No discrimination shall be made in the accommodations, care or treatment of any patient because of the fact that the patient or his relatives contribute to the cost of his maintenance, in whole or in part. No patient shall be permitted to pay for his maintenance in such hospital a greater sum than the average per capita cost of maintenance therein, including a reasonable allowance for the interest on the cost of the hospital. No officer or employee of such hospital shall accept from any patient thereof, any fee, payment or gratuity whatsoever for his services."

Article 4487, Vernon's Annotated Texas Civil Statutes, reads as follows:

"Whenever a patient has been admitted to said hospital from the county in which the hospital is situated, the superintendent shall cause inquiry to be made as to his circumstances, and of the relatives of such patient legally liable for his support. If he finds that such patient or said relatives are liable to pay for his care and treatment in whole or in part, an order shall be made directing such patient, or said relatives to pay to the treasurer of such hospital for the support of such patient a specified sum per week, in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The superintendent shall have power and authority to collect such sum from the estate of the patient, or his relatives legally liable for his support, in the manner provided by law for the collection

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of expenses of the last illness of a deceased person. If the superintendent finds that such patient, or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, the same shall become a charge upon the county. Should there be a dispute as to the ability to pay, or doubt in the mind of the superintendent, the county court shall hear and determine same, after calling witnesses, and shall make such order as may be proper, from which there shall be no appeal."

It is clearly apparent that the law contemplates that county hospitals will be self-supporting in part and will also be supported by the county. Patients who are able will pay for their maintenance in the county hospital but no patient will be permitted to pay a greater sum than the average per capita cost of maintenance therein, including a reasonable allowance for the interest on the cost of the hospital. Officers and employees of county hospitals are prohibited from accepting fees, payments or gratuities from patients for their services. No discrimination is to be made between paying patients and non-paying patients. (Article 4487, supra)

The salaries of the superintendent and all other officers and employees of the county hospital are fixed by the board and must be within the limit of the appropriation made therefor by the commissioners' court. Such salaries shall be compensation in full for all services rendered. (Article 4480, supra). The board shall also appoint a staff of visiting physicians who shall serve without pay from the county. (Article 4480, supra).

In view of the foregoing authorities, you are respectfully advised that it is the opinion of this department that your question should be answered in the negative and it is so answered.

Very truly yours

ATTORNEY GENERAL OF TEXAS

BY

Wm. J. Fanning

Wm. J. Fanning
Assistant

APPROVED JUN 15, 1940

George B. Mann

ATTORNEY GENERAL OF TEXAS

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