



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Crippled Children Division
Vocational Rehabilitation Division
State Department of Education
Austin, Texas

Attention: Mr. James L. Tenney

Dear Sir:

Opinion No. O-4369

Re: Whether you may certify receipt of a demand note for \$627.50 signed by G. O. Neal in repayment of medical services and hospitalization furnished to his children by your division.

We have your request for an opinion on the above question. You ask:

"... as to the legality of an agent of the State, acting in the capacity of an employee of the Crippled Children's Division of the State Department of Education, signing a demand note in order to recover an amount expended by the State Division in providing treatment for Janice and Odell Neal, children of Mr. G. O. Neal of Route 2, Whitewright, Texas, Grayson, County."

To your letter you attach the letter from Webb & Webb, Attorneys for G. O. Neal, the note signed by Mr. G. O. Neal and the certificate which Webb & Webb have asked you to execute. As we understand the letter of Webb & Webb addressed to you on the date of March 13th, they are not asking that you sign the demand note but merely that you acknowledge receipt thereof by means of the certificate.

If your division has in fact paid out the sum of \$627.50 for medical services and hospitalization for Janice

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and Odell Neal rendered by Dr. Mills at Baylor Hospital of Dallas, Texas," and if you understand that the treatment rendered for these children was made necessary by burns which were caused by an explosion, then in that event, we see no objection to your signing the certificate and returning the same to Webb & Webb in order that they might enter the same in evidence to establish the amount of medical and hospitalization expenses rendered necessary by reason of the injury to these children.

Article 2675j, Vernon's Civil Statutes of Texas, which prescribes the duties of your division, makes no provision for the recovery of medical and hospitalization expenses furnished by your division, but we know of no reason why a parent of children who have received aid from your division may not voluntarily repay the amount of such expenditure. Section 7 of said Act provides in part:

"The State Department of Education is authorized to receive gifts and donations for this work. All gifts and donations for crippled children's work shall be paid into the State Treasury and the same are hereby reappropriated for the purposes of this Act."

While you would have no method of enforcing repayment of these expenses by Mr. G. O. Neal, we know no reason why you should not accept his demand note in the sum of \$627.50, and if, as, and when he pays the same deposit the money in the State Treasury to the proper fund as indicated by Section 7 of Article 2675j quoted above.

We are returning to you herewith the \$627.50 note signed by G. O. Neal, the letter from Spearman Webb to you, dated March 13, 1942, and the certificate which he has asked you to sign.

Yours very truly

APPROVED APRIL 8, 1942

ATTORNEY GENERAL OF TEXAS

/s/ Grover Sellers

FIRST ASSISTANT
ATTORNEY GENERAL

By

/s/ Walter R. Koch
Assistant

WRK:db

Enclosures

APPROVED OPINION COMMITTEE BY B.W.B. CHAIRMAN