



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

July 29, 1957

Honorable James A. Giddings
Acting Executive Director
Board for Texas State Hospi-
tals and Special Schools
Box S, Capitol Station
Austin, Texas

Opinion No. WW-207

Re: Whether or not House Bill
169, Acts 55th Legislature,
Regular Session, 1957 or
Acts 21st Legislature,
1889, chapter 69, page 79
would authorize the con-
struction of an out-
patient facility in San
Antonio, Texas.

Dear Mr. Giddings:

We quote from your letter of July 9, 1957:

" . . . we request the opinion of your office
as to whether or not H.B. 169, or the Act origi-
nally authorizing the establishment of the San An-
tonio State Hospital, would authorize the construc-
tion of an out-patient facility in San Antonio."

The caption and pertinent sections of House Bill 169,
Acts 55th Legislature, Regular Session, 1957, with which this
opinion is concerned, provide in part as follows:

"An Act authorizing out-patient clinics and
. . . for a large mental hospital and for out-
patient clinics. . . .

"Section 1. It is the sense of the Legislature
that the Board for Texas State Hospitals and Special
Schools be authorized to establish such out-patient
clinics for treating the mentally ill as such Board
deems necessary and as funds for their operation are
made available; and

"Authorization for Out-Patient Clinics

"Section 2. The Board for Texas State Hospi-
tals and Special Schools is authorized to establish
out-patient clinics for treatment of the mentally
ill in such locations as deemed necessary by said
Board and as money for their operation shall be made
available. The Board shall acquire facilities, pro-
vide a staff, make rules and regulations, and make

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contracts with persons, corporations, and agencies of local, state, and federal governments as shall be necessary for the establishment and operation of said clinics.

"Establishment of Community or Research Hospitals

"Section 3. . . . The Board . . . shall designate the city and select a site or sites therein for the location of said community hospital and out-patient clinic. . . ."

You are advised that House Bill 169, Acts 55th Legislature, Regular Session, 1957, which authorizes the Board for Texas State Hospitals and Special Schools to "establish such out-patient clinics for treating the menatilly ill in such locations as such Board deems necessary and as funds for their operation are made available," authorizes the construction of an out-patient facility in San Antonio, Texas.

House Bill 156, Acts 21st Legislature, 1889, chapter 69, page 79 is entitled, "An Act to provide for the purchase of a site for, and the establishment, location, and construction of an asylum in Southwestern Texas for the care and treatment of the insane, and to make an appropriation therefor," and in part reads as follows:

"Section 1. . . . That there shall be established and maintained a branch asylum for the care and treatment of the insane. The same shall be located west of the Colorado river, in southwest Texas."

The Southwestern Insane Asylum located in San Antonio, Texas was constructed and established in 1892 under the authority granted in the above quoted Act.

Article 3185, Vernon's Civil Statutes, enacted in 1925, changed the name of the Southwestern Insane Asylum to San Antonio State Hospital.

We subscribe to the view that the Legislature by the enactment of House Bill 156, Acts 21st Legislature, 1889, chapter 69, page 79 manifested the intention that the hospital provided therein should in all respects have such facilities and perform such services as might be reasonably necessary to fulfill the normal functions of such an institution. The Legislature did not seek to prescribe with exactness the facilities

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to be maintained or the services to be performed by the hospital. Such questions were wisely left to the sound discretion of the governing board to be resolved by said board within the limits of legislative appropriations.

We think it clear that House Bill 156, Act 21st Legislature, 1889, chapter 69, page 79 constitutes a valid pre-existing law authorizing the construction of out-patient facilities in connection with San Antonio State Hospital. However, the exercise of such authority by the Board for Texas State Hospitals and Special Schools is necessarily dependent upon the appropriation of funds for such specific purpose by the Legislature.

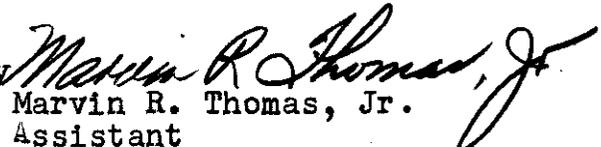
We do not pass upon the availability of funds for the construction of out-patient clinics since such a question was not raised in your request.

SUMMARY

House Bill 156, Acts 21st Legislature, 1889, chapter 69, page 79 authorizes the construction of an out-patient facility as a part of San Antonio State Hospital, San Antonio, Texas. House Bill 169, Acts 55th Legislature, Regular Session, 1957, authorizes the construction of an out-patient facility in San Antonio, Texas.

Yours very truly,

WILL WILSON
Attorney General of Texas

By 
Marvin R. Thomas, Jr.
Assistant

MRT:wam:wb

APPROVED:

OPINION COMMITTEE

H. Grady Chandler, Chairman
J. C. Davis, Jr.
Grundy Williams
Fred Werkenthin

REVIEWED FOR THE ATTORNEY GENERAL

BY: Geo. P. Blackburn