



**THE ATTORNEY GENERAL
OF TEXAS**

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**HAWFORD G. MARTIN
ATTORNEY GENERAL**

April 28, 1969

Honorable H. B. Virgil Crawford
County Attorney
Terry County
Brownfield, Texas 79316

Opinion No. M-385

Re: Whether the Terry
County Hospital Dis-
trict must furnish
ambulance service and
whether Terry County
and the City of Brown-
field can participate
in providing funds for
ambulance service.

Dear Mr. Crawford:

You have requested the opinion of this office on
the following questions:

"1. Is ambulance service a part of
medical care required of a hospital dis-
trict, such as ours, and under the present
situation?

"2. Are Terry County and the City of
Brownfield barred from participation in pro-
viding funds for ambulance service in Terry
County?

"3. Can city, county, or hospital ex-
pend money to subsidize private ambulance
service?"

The Terry Memorial Hospital District was created
pursuant to the provisions of House Bill 1146, Acts 59th
Leg. R.S., 1965, Ch. 653, p. 1502, as authorized by Section
9 of Article IX of the Texas Constitution. Under House
Bill 1146, the district is given full responsibility for
the medical and hospital care of the needy and indigent
persons within the district.

The pertinent parts of House Bill 1146 are as
follows:

"Sec. 2. The District herein author-
ized to be created shall take over and there

shall be transferred to it title to all lands, buildings, improvements and equipment in anywise pertaining to the hospitals or hospital systems owned by Terry County and any city or town within such County, and thereafter the District shall provide for the establishment of a hospital system by the purchase, construction, acquisition, repair or renovation of buildings and equipment, and equipping the same and the administration thereof for hospital purposes. Such District shall assume full responsibility for providing medical and hospital care for its needy inhabitants and shall assume the outstanding indebtedness which shall have been incurred by any city or town or by Terry County for hospital purposes prior to the creation of said District. . . .

"Sec. 5. . . . The Board of Directors shall have the authority to employ such nurses, technicians, and other lay personnel as may be deemed necessary for the efficient operation of the District. . . .

"Sec. 17. After creation of Terry Memorial Hospital District, neither Terry County, Texas, nor any city or town therein shall thereafter issue bonds or other evidences of indebtedness or levy taxes for hospital purposes or for medical care, and the said Terry Memorial Hospital District shall assume full responsibility for the operation of all hospital facilities for the furnishing of medical and hospital care of indigent persons."
(Emphasis added.)

This office has previously expressed the view, in Attorney General's Opinion C-759 (1966), that the operation of an ambulance service, while not exclusively a hospital service, is sufficiently related to the effective and efficient operation of a hospital as to be within the authority of the Board of Managers of a hospital district to acquire and operate such an ambulance service in carrying out its duties within the district. C-759 expressly stated that the authority of the district with regard to the operation of an ambulance service was not exclusive and did not preclude the operation of such a service within the district by others. The essence of the

holding in C-759 was that ambulance service was an ancillary function which a hospital district could undertake if it were deemed necessary, but that such service was not a duty which fell exclusively upon the district. We adhere to that holding.

With regard to your second question, the protection and preservation of the public health is within the scope of the police power of the State, and in carrying out its responsibilities, the county, city or hospital district is exercising delegated powers of the State within the limits of the county, city or hospital district. City of Dallas v. Smith, 130 Tex. 225, 107 S.W.2d 872 (1937). Under the provisions of Article 4418f, Vernon's Civil Statutes, a county has the authority to operate and maintain an ambulance service within the county if the Commissioners Court determines that such service is in furtherance of the public health and sanitation. Under the authority of Article 4434 a county may cooperate with incorporated cities within the county in the operation of an ambulance service, provided that the extent of the county's contribution under the agreement does not contravene the limitations of Article III, Section 52, Texas Constitution. Attorney General's Opinion C-772 (1966).

With regard to cities and towns, Attorney General's Opinion M-231 (1968) expressed the view that Article XI, Sections 4 and 5, Texas Constitution, and Articles 1011 and 1175, Vernon's Civil Statutes, constituted authority for the governing bodies of such cities and towns to operate emergency ambulance services within their cities in order to protect the health, safety and general welfare of the citizens.

Taking into consideration all of the various authorities and powers that have been discussed above, together with the fact that at no time has the Legislature made an express statement regarding the authority to perform ambulance services, it is the opinion of this office that towns, cities, counties and hospital districts each have the authority to provide such services to the citizens of this State within the limits of their respective constitutional and statutory authorization, and may also join together in a cooperative enterprise for such services.

With respect to your third question, in accordance with Attorney General's Opinions C-759 and C-772, you are advised that Terry County, the City of Brownfield and the

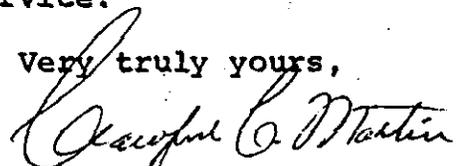
Terry Memorial Hospital District have the authority to expend money to provide ambulance service when there has been a determination by the governing body of each governmental agency that such service will be in furtherance of the public health and general welfare of their citizens. This authority extends to entering into contracts with a private agency to provide ambulance service, subject to the provisions of Article III, Section 52, Texas Constitution.

S U M M A R Y

The furnishing of ambulance service is not an exclusive duty of a hospital district within the meaning of House Bill 1146, Acts 59th Leg., 1965, Regular Session, Ch. 653, p. 1502, but the furnishing of such service is within the authority of the district if the Board of Directors deem such service necessary for the effective and efficient operation of the district.

Cities and counties within a hospital district have authority to furnish ambulance service, cooperate with each other and the hospital district for the furnishing of such services, or may contract with a private agency for ambulance service.

Very truly yours,



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