



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 12, 1996

David R. Smith, M.D.
Commissioner
Texas Department of Health
1100 West 49th Street
Austin, Texas 78756-3199

Letter Opinion No. 96-071

Re: Whether a special hospital may provide
surgical and obstetrical services (ID# 36955)

Dear Dr. Smith:

You contend that the definitions of "special hospital" and "general hospital" in Health and Safety Code section 241.003 prohibit the former from providing surgical and obstetrical services. You inquire whether your contention is correct. We believe it is.

Section 241.003 bifurcates the term "hospital" into "general" and "special":

(4) "General hospital" means an establishment that:

(A) offers services, facilities, and beds for use for more than 24 hours for two or more unrelated individuals requiring diagnosis, treatment, or care for illness, injury, deformity, abnormality, or pregnancy; and

(B) regularly maintains, at a minimum, clinical laboratory services, diagnostic X-ray services, treatment facilities including surgery or obstetrical care or both, and other definitive medical or surgical treatment of similar extent.

....

(11) "Special hospital" means an establishment that:

(A) offers services, facilities, and beds for use for more than 24 hours for two or more unrelated individuals who are regularly admitted, treated, and discharged and who require services more intensive than room, board, personal services, and general nursing care;

(B) has clinical laboratory facilities, diagnostic X-ray facilities, treatment facilities, or other definitive medical treatment;

(C) has a medical staff in regular attendance; and

(D) maintains records of the clinical work performed for each patient.

In your opinion, the legislature omitted the phrase "surgery or obstetrical care" from the definition of "special hospital" because it intended to distinguish between special and general hospitals on the basis of the availability of those services. We believe the history and language of the definitions support your argument. Before the legislature enacted these definitions in their current form in 1962, the hospital licensing statute contained only a single definition of the term "hospital." See V.T.C.S. art. 4437f (historical note) (1976). That prior, unlimited definition specifically included "all places where pregnant females are received, cared for, or delivered . . ." Act of May 5, 1959, 56th Leg., R.S., ch. 223, sec. 1, § 2, 1959 Tex. Gen. Laws 505, 506. The 1962 amendment bifurcated the definition, with "obstetrical care" only as a part of the "general hospital" definition, and repealed the statute that at the time provided for licensing of maternity homes. Act of Jan. 29, 1962, 57th Leg., 3d C.S., ch. 32, sec. 1, § 2, 1962 Tex. Gen. Laws 92, 92; see also V.T.C.S. art. 4442 (historical note) (1976) (repealed maternity home licensing statute subject matter included in hospital licensing statute). Similarly, prior to 1962 the definition of "hospital" in the licensing statute included any institution that provided surgical services. Act of May 5, 1959, 56th Leg., R.S., ch. 223, sec. 1, § 2, 1959 Tex. Gen. Laws 505, 505. The 1962 bifurcated definitions included surgery only in the definition of "general hospital," however. See Act of Jan. 29, 1962, 57th Leg., 3d C.S., ch. 32, sec. 1, § 2, 1962 Tex. Gen. Laws 92, 92.

We must presume that the legislature has selected statutory language carefully and intentionally. *Texas Dep't of Human Services v. Green*, 855 S.W.2d 136, 142 (Tex. App.--Austin 1993, writ denied). Similarly, a court will effectuate "all the words of a statute and not treat any statutory language as surplusage." *Chevron Corp. v. Redmon*, 745 S.W.2d 314, 316 (Tex. 1987). That rule must especially be the case in statutory definitions. Because these definitions of special and general hospital are so very similar and were enacted at the same time, the omission of "surgery or obstetrical care" supplies one of the few differences between the two. We conclude, therefore, that a special hospital may not provide surgical or obstetrical care.

S U M M A R Y

Special hospitals, as defined in section 241.003(11), Health and Safety Code, may not provide surgical or obstetrical services.

Yours very truly,



Kimberly K. Oltrogge
Assistant Attorney General
Opinion Committee