



MONTAGUE COUNTY ATTORNEY

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Jeb McNew
COUNTY ATTORNEY

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SEP 16 2002

OPEN RECORDS DIVISION

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September 11, 2002

OPINION COMMITTEE

RQ-0609-JC

Via Certified Mail RRR# 70011940000294008793

Office of the Attorney General

Opinion Division

P.O. Box 12548

Austin, TX 78711-2548

FILE # ML-42799-02
I.D. # 42799

Re: Request for Attorney General Opinion

Dear Sirs or Madames:

The Montague County Sheriff has requested an opinion regarding health care of inmates in the Montague County Jail. Enclosed is a copy of his memo. The context of his request involves an inmate for whom emergency transport was sought. The Nocona Hospital EMT responded intending to take the inmate to Nocona General Hospital, however, the inmate wanted to be transported to Bowie Memorial Hospital and was so transported.

The questions posed by Sheriff Hamilton and for which an AG opinion is requested are these:

1. Does the inmate have the right to choose a medical provider while in custody? and if he does not;
2. If an inmate refuses to use the provider designated by the Sheriff's Office, does that constitute a refusal of medical treatment?

In responding to Sheriff Hamilton's request for an opinion, I have been unsuccessful in locating any relevant authority.

In my research of AGO's, the only opinion even remotely on point is Opinion No. DM-111 regarding the respective authority of the Commissioner's Court and the Sheriff as to their responsibilities for inmate medical services.

A Lexis search did not yield any statutory or case law authority on the issue presented.

My discussions with an individual in the Texas Commission on Jail Standards was helpful but not conclusive of the issues presented.

There are factual circumstances which may affect my opinion. They include:

1. The Nocona General Hospital is located approximately 9 miles from the jail. The Bowie Memorial Hospital is located approximately 11 miles from the jail. Due to the difference in distance as well as the fact that the route to and from the Bowie Hospital requires more in-city driving. The response time is approximately 5 minutes quicker to and from the Nocona Hospital.
2. Nocona General Hospital is a hospital district and taxing entity. Bowie Memorial Hospital is not a hospital district.

Enclosed is a copy of the Montague County Jail's Health Services Plan.

Without the benefit of any authority I have located, it is my opinion that:

1. An inmate does not have the right to choose his or her medical provider unless such care is specialized (such as for chronic illnesses) and such care is provided on a 3rd party pay basis.
2. An inmate's refusal to use the designated provider constitutes refusal of medical treatment.

If you require any additional information in order to prepare an Attorney General Opinion, please contact me.

Thank you for your assistance.

Sincerely,



Jeb McNew

JM/sac

Enclosures: as stated

Copy: Sheriff Hamilton (without enclosures)