



**THE ATTORNEY GENERAL  
OF TEXAS**

October 10, 1989

**JIM MATTOX  
ATTORNEY GENERAL**

Mr. Dennis Jones  
Commissioner  
Department of Mental Health  
and Mental Retardation  
P. O. Box 12668  
Austin, Texas 78711-2668

LO-89-80

Dear Mr. Jones:

You inform us of a certain program being developed by the Department of Mental Health and Mental Retardation. This program would involve department physicians spending part of their hours of state employment supervising medical residents at Brackenridge Hospital in Austin and acting as admitting physicians. Brackenridge Hospital is operated by the city of Austin and is not a part of the department.

Article III, section 51, of the Texas Constitution prohibits donations of public money and other things of value to a municipal corporation. That provision does not prohibit all grants of things of value to a municipal corporation. Such grants are permissible if it is for a public purpose and if there are controls to assure that the public purpose is actually achieved. Attorney General Opinions MW-373 (1981); MW-89 (1979); H-1309, H-1260 (1978).

Whether the Brackenridge program serves a public purpose is a question of fact that must be determined in the first instance by the department. It would also be the department's responsibility to see that adequate controls existed to insure that the public purpose was achieved. In short, the issue of whether employees of the Texas Department of Mental Health and Mental Retardation may participate as supervising physicians in a hospital's medical residency program is a question of fact, which cannot be answered in the opinion process.

Very truly yours,

A handwritten signature in cursive script that reads "Karen C. Gladney".

Karen C. Gladney  
Assistant Attorney General  
Opinion Committee

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APPROVED: Sarah Woelk, Chief  
Letter Opinion Section

APPROVED: Rick Gilpin, Chairman  
Opinion Committee

KCG/er

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