



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

November 29, 1989

Honorable W. C. McDonald  
Pecos County Attorney  
103 W. Callaghan  
Fort Stockton, Texas 79735

LO-89-100

Dear Mr. McDonald:

At the request of the county auditor, you ask whether bills and accounts of the county hospital must be presented to the county auditor for his approval prior to their presentation to the commissioners court for its approval and order authorizing payment.

You inform us that Pecos County operates two county hospitals, one in Fort Stockton and the other in Iraan. We assume these hospitals are established pursuant to the authority granted the commissioners court by chapter 263 of the newly enacted Health and Safety Code<sup>1</sup> and not as joint city-county hospitals or as units of a hospital district. See, e.g., Tex. Const. art. IX, § 9 (authorizing creation of hospital districts); Health & Safety Code ch. 265 (joint municipal and county hospitals), ch. 282 (hospital districts in counties of 75,000 or fewer inhabitants).

The commissioners court of a county establishing a county hospital under chapter 263 must appoint a board of managers for the hospital. Health & Safety Code § 263.041(a). As you observe in your letter requesting this

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1. The Health and Safety Code is the latest installment in the continuing statutory revision program begun in 1963 and conducted in accordance with the provisions of chapter 323 of the Government Code. The code was enacted as a nonsubstantive revision of the laws relating to public health and safety. See Acts 1989, 71st Leg., ch. 678, § 1, at 2230 (effective September 1, 1989). Article 4478, V.T.C.S., from which the commissioners court previously derived the authority to establish a county hospital, was repealed and recodified in large part in chapter 263 of the code. Id. § 13, at 3165.

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opinion, the board of managers of a county hospital, in addition to its other duties, is required to

certify all bills and accounts, including salaries and wages, and transmit them to the commissioners court, which shall provide for their payment in the same manner that other charges against the county are paid. (Emphasis added.)

Id. § 263.053(b); see Attorney General Opinion Nos. MW-379 (1969); V-1265 (1951); see also Health & Safety Code § 263.043(b) (actual and necessary expenses of the board of managers shall be audited and paid by the commissioners court in the same manner as other expenses of the hospital).

As you also observe, section 113.064 of the Local Government Code provides that no claim, bill, or account against the county may be allowed or paid until it is examined and approved by the county auditor, who must receive the claim in sufficient time to examine and approve it before the meeting of the commissioners court. In Attorney General Opinion MW-121 (1979) this office concluded that the approval and audit of the county auditor is a prerequisite for the commissioners court to order payment of claims against the county and, by extension, the bills and accounts of the county hospital. Our research has revealed no change in the law governing county finances or county hospitals, other than the restructuring of the law as part of the Health and Safety Code, as to require a different result. Accordingly, you are advised that the bills and accounts of the county hospital must be submitted to the county auditor for his examination and approval prior to their presentation to the commissioners court for its approval and order authorizing payment.

Very truly yours,



Steve Aragon  
Assistant Attorney General  
Opinion Committee

APPROVED: Rick Gilpin, Chairman  
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SA/RG/SW/mc

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