



RQ-822

# Texas Department of Health

David R. Smith, M.D.  
Commissioner

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June 16, 1995

RECEIVED  
JUN 21 1995

Opinion Committee

The Honorable Dan Morales  
Attorney General of Texas  
P. O. Box 12548  
Austin, Texas 78711-2548

STS

FILE # ML-34346-95

I.D. # 34346

Re: Request for Attorney General Opinion

Dear General Morales:

I am writing to request an Attorney General's Opinion under authority of the Texas Gov't. Code Ann. §402.042(b)(2) (Vernon 1990).

The Texas Department of Health (TDH) licenses and regulates hospitals pursuant to Tex. Health & Safety Code Ann. Chapters 241 and 577.

An issue has arisen regarding the authority of TDH to issue a hospital license to facilities which are not at the same location. As you know, the health care industry is going through significant changes. The integration of hospital care into health care delivery systems has presented us with the issue of what facilities we license. We have reexamined the hospital licensing laws and concluded that each hospital facility must be separately licensed, as stated in Attorney General Opinion number WW-794 (1960).

TDH has recently proposed rules consistent with this interpretation that state:

§133.4(a) Each license shall be issued only for the premises and persons or governmental units named in the application. A license shall not be extended to other locations for inpatient services, outpatient services, or any other services. One license shall be issued for one location only.

§133.2 Premises - Contiguous buildings at the same location and street address and under common direction. 20 *Texas Register* 1934, 1936 (1995).

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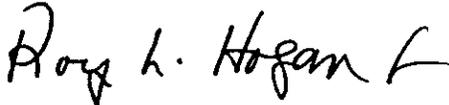
Because the proposed rules will change current policy, many comments have been received urging TDH to issue one license to several facilities that are part of a health care delivery system. A list of individuals who have commented on these proposed rules is attached for your reference. We believe that they may be interested in submitting comments to you on this issue.

**Questions:**

1. Does TDH have authority, under Tex. Health & Safety Code Ann. §241.023(c), to issue a license to a hospital for additional facilities operated as a part of a hospital that are located apart from the main premises?
2. Does TDH have authority under this statute to define "premises?"

Your consideration of this request will be greatly appreciated. As the administrative rules governing hospital licensing are pending your response to the questions presented, we ask you to expedite your response. If you need additional information or have questions, please contact Sharon Alexander, Attorney, Office of General Counsel at (512) 458-7236.

Sincerely,

A handwritten signature in black ink that reads "David R. Smith". The signature is written in a cursive style with a large initial 'D' and 'S'.

David R. Smith, M.D.  
Commissioner of Health