

Office of the Attorney General
HOWARD COUNTY TEXAS



RQ-0306-JC

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HOWARD COUNTY COURTHOUSE

November 6, 2000

Honorable John Cornyn
Attorney General of Texas
%Susan D. Gusky
Chair of Opinion Committee Division
P. O. Drawer 12548
Austin, TX 78711-2548

RECEIVED
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OPINION COMMITTEE

FILE # ML-41738-00
I.D. # 41738

Re: May Howard County charge a document preparation fee for preparing the necessary documents for other counties in mental health proceedings connected to Big Spring State Hospital?

If Howard County is not allowed to charge this fee, may Howard County refuse to prepare the necessary documents and refuse to conduct the hearings for patients at Big Spring State Hospital placed from other counties?

Dear Ms. Gusky:

Health and Safety Code Section 574.008 (c) provides "If a patient is receiving temporary inpatient mental health services in a county other than the county that initiated the court-ordered inpatient mental health services and the patient requires extended inpatient mental health services, the county in which the proceedings originated shall pay the expenses of transporting the patient back to the county for hearing unless the court that entered the temporary order arranges with the appropriate court in the county in which the patient is receiving services to hold the hearing on court ordered extended inpatient mental health services before the original order expires."

The catchment area for Big Spring State Hospital includes 78 counties. Most counties perform emergency detentions on patients that need mental health care and subsequently transfer the patients to Big Spring State Hospital. If the patients need further care, Howard County has been conducting the subsequent proceedings. Howard County must do thousands of hearings for these other counties. A listing of the subsequent hearings and necessary document preparations are as follows:

PROBABLE CAUSE HEARING:

1. Order of Protective Custody
2. Notice of Hearing
3. Order of Probable Cause

90-DAY HEARING

1. Application from Hospital
2. Order Setting Hearing and Appointing Attorney
3. Recommendation for Most Appropriate Treatment from Hospital
4. Two (2) Physician Certificates of Examination from Hospital
5. Statement of Facts
6. Financial Statement
7. Judgment
8. Writ of Commitment
9. Acknowledgement of Patient

EXTENDED

1. Application from Hospital
2. Order Setting Hearing and Appointing Attorney
3. Notice of Hearing
4. Waiver of Trial By Jury
5. Recommendation for Most Appropriate Treatment from Hospital
6. Two (2) Physician Certificates of Examination from Hospital
7. Statement of Facts
8. Financial Statement
9. Judgment
10. Writ of Commitment
11. Acknowledgement of Patient

PSYCHOACTIVE MEDICATION HEARING

1. Application from Hospital
2. Order Setting Hearing and Appointing Attorney
3. Notice of Hearing
4. Order Authorizing Psychoactive Medication

Howard County has had a long-standing relationship with most of the counties in the catchment area to prepare the documents and conduct the hearings. In exchange, for the preparation of documents and conducting the hearings, the counties have paid all of the statutory fees plus document preparation fees. This fee was established by Order of the Commissioner's Court of Howard County in 1989. The fees are as follows:

Probable Cause Hearing	\$ 75.00
90-Day Hearing	150.00
Extended	200.00
Jury Trial Commitment	300.00

Lubbock County and Potter County have recently refused to pay these fees contending that the document preparation fee is illegal and cannot be collected by Howard County. Howard County maintains the fees are legal because of the additional financial burden placed on Howard County and the County Attorney's Office in preparing the documents and setting the hearings so that Howard County may conduct the hearings.

The first question that Howard County is requesting an opinion is, "may Howard County legally charge the document preparation fee to compensate Howard County for the additional staff-time required to prepare the documents and set the hearings for Howard County in order for Howard County to conduct these hearings for other Counties?"

If the answer to the first question is that Howard County may not charge the document preparation fee, then may Howard County refuse to do the hearings for patients sent to Big Spring State Hospital by other counties?

Best Regards,

CO
C. E. "Mike" Thomas, III

CET:mjo

Encls: (1)

C: Potter County Judge
Lubbock County Judge