

RQ-0377-JC

**DELWIN JONES**  
STATE REPRESENTATIVE  
DISTRICT 83  
  
P.O. BOX 2910  
AUSTIN, TEXAS 78768-2910  
512-463-0542  
FAX 512-463-0671

The State of Texas  
House of Representatives  
Austin, Texas

CHAIRMAN OF:  
REDISTRICTING COMMITTEE  
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OPINION COMMITTEE

OFFICE OF THE ATTORNEY GENERAL  
EXECUTIVE ADMINISTRATION

Honorable John Cornyn  
Texas Attorney General  
PO Box 12548  
Austin, Tx 78711-2548

1999

Re: Request for Opinion

FILE # ML-41972-01  
I.D. # 41972

Dear General Cornyn:

Lubbock County Hospital District and the City of Lubbock have asked me to request an Opinion from you with regard to whether Lubbock's Fire Department may provide "First Responder" services within the City of Lubbock, which is located within Lubbock County Hospital District, on a city-tax supported basis in view of the prohibition against other taxing entities within a voter approved hospital district providing tax supported "medical care" within the hospital district.

The prohibition is contained in the legislation creating the Lubbock County Hospital District, which was approved by the voters in Lubbock County in 1967 (see Chapter 484, 60th Legislature, Secs. 1 and 3), the Health and Safety Code, Sec 286.072, and Art. 9, Sec. 9, of the Texas Constitution.

The Lubbock County Hospital District currently provides emergency ambulance services for the hospital district in conjunction with University Medical Center, a hospital operated by the District.

The requirements and duties of "First Responder" organizations have been established by the Texas Board of Health pursuant to Sec. 773.050 of the Health and Safety Code. Those requirements and duties are set forth at 25 TAC 157.14. The essentials of the First Responders program are that First Responders routinely respond to emergency situations, utilize personnel who are emergency medical services (EMS) certified by the Texas Department of Health, provide on-scene patient care, and do not transport patients. A "First Responder Organization" is defined

at Sec. 773.003 of the Health and Safety Code as a "group or association of certified emergency medical services personnel, that, working in cooperation with a licensed emergency services provider, provides immediate, on-scene care to ill or injured persons, but does not transport those persons."

In the present situation, the City of Lubbock Fire Department would be expected to perform "First Responder" services without remuneration by either the Hospital District or by the patients themselves, which would mean that the salaries, fringe benefits, vehicles and all other associated expenses would be at City of Lubbock taxpayer expense. First Responder emergency responses would not be limited to fire emergency calls, but would be to all medical emergency calls in the city whenever a fire station would be the closest responder.

Attorney General Opinion No. H1279 (1978) dealt with a somewhat similar situation where a County wanted to operate an ambulance service within a hospital district. The opinion indicated that, while a hospital district could operate an ambulance service as an auxiliary function of its hospital, it had no exclusive duty to do so and the County was not prohibited from providing an ambulance service, which was kindred to police or fire service, citing *AVALA v. CITY OF CORPUS CHRISTI* (507 S. W. 2d 324 (Tex. Civ. App.- Corpus Christi, 1974, no writ). It should be noted that the First Responder program may be significantly different from an ambulance service as First Responders do not transport patients at all and, instead, render on-scene patient care.

However, Attorney General Opinion No. JM-1052 (1989) notes that the expenditure of funds by other political subdivisions within a hospital district approved by the voters for any type of medical care, not just medical care for the needy, is prohibited. This Opinion also indicated that the question of whether an expenditure of a political subdivision within a hospital district is an expenditure for medical care must be determined on a case-by-case basis.

A letter from the Hospital's Vice President for Patient Care Services describing the duties of the firemen pursuant under a "First Responder" program is attached to this letter as Exhibit A. Typical duties upon arriving at an emergency (including many non-fire emergencies) will include administering prescription drugs orally (such as Nitroglycerin for chest pains), by injection (such as Epinephrine for allergic reaction), and by intravenous solution (such as glucose for low blood sugar). They will also administer oxygen and provide CPR services, which may include such things as taking EKGs. Stabilization of the patient at the scene may include such things as application of a tourniquet, applying splints, and closing wounds.

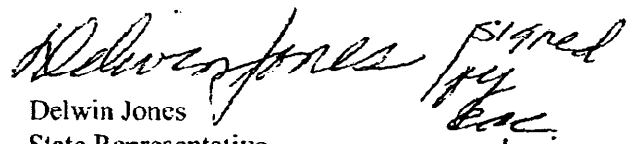
REP. DELWIN JONES., PAGE 3...REQUEST FOR OPINION

The central issue appears to be whether the services provided by First Responders are "medical care" within the meaning of the above cited statutes and constitutional provision that cannot properly be funded by another political subdivision's tax revenues within a hospital district created by voter approval. No cases directly interpreting the statutory provisions cited above have been located to date. There are, of course, numerous other statutes and cases interpreting what "medical care" means, but they do not appear helpful.

The Hospital District and the City of Lubbock would very much appreciate your opinion as to whether it would be proper for the City of Lubbock Fire Department to serve as First Responders within the City of Lubbock, which is within the boundaries of Lubbock County Hospital District.

Thank you for your work on this matter.

Sincerely,

 Signed by  
D.J.

Delwin Jones  
State Representative  
District 83  
Chairman, House  
Redistricting Committee

One Enclosure  
EXHIBIT A, Hospital Letter



# University Medical Center

Exhibit  
A -

March 15, 2001

To: Lois Wischkaemper

From: Kim Judd, RN *KJ*  
Vice President for Patient Care Services

Subject: First Responder Services

As requested, I am writing to provide a description of how First Responder Services have been performed in the past and how they are provided in conjunction with the Lubbock Fire Department.

Since 1991, Lubbock EMS has provided First Responder services throughout Lubbock County. The program was initiated to improve the efficiency of EMS and to improve response times. There are three First Responder units on duty and positioned at strategic locations throughout the city. 2 of the units are on duty from 0700-0300 the following day and the other unit is on duty from 1000 to 2200. The First Responders respond to 911 calls when they are the closest vehicle, when there is a cardiac arrest or another medical condition that warrants response, and when the ambulance crew requests help at the call they are on. Until recently, the Fire Department was only called when EMS needed assistance with extrication, requiring the Jaws unit. The average response time for the First Responder Units in 2000 was approximately 3.7 ~~seconds~~ minutes.

When the Lubbock Fire Department requested to begin First Responding to medical emergencies, they requested that they be allowed to respond to life threatening calls. Therefore, they are responding to all Priority I calls which includes situations such as cardiac arrests, decreased level of consciousness and chest pain. They began first responding on 2-01-01. From the period 2-01-01 through 02-20-01, Lubbock EMS and Lubbock Fire Department responded to 665 Priority I calls inside the city limits. Lubbock Fire Department arrived on the scene first on 124 (19%) of the calls. The role of the Fire Department is Basic Life Support as their Firemen are certified as Emergency Medical Technicians, not as Paramedics. They are able to administer Nitroglycerin for chest pain, Epinephrine for allergic reactions, and glucose for low blood sugar. They are

602 Indiana Avenue PO Box 5980  
Lubbock, Texas 79408-5980 806 743-3111

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First Responder

also allowed to administer oxygen. Essentially, their role is to begin stabilizing patients until the paramedics arrive on the scene and assume responsibility for the patients. In the event of a cardiac or respiratory arrest, they are able to begin CPR.

I hope that I have explained the roles of the First Responders adequately. Should you have questions, feel free to contact me.