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OPINION COMMITTEE

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August 3, 2011

Hon. Greg Abbott
Texas Attorney General
Opinions Section
P.O. Box 12548
Austin, TX 78711-2548

FILE # ML-46801-11

I.D. # 46801

RQ-0990-GA

Re: Request for an Opinion

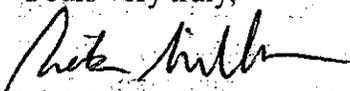
Dear Sir:

I am seeking an opinion as to what mode of transportation may be used to transport a mentally ill person to Austin State Hospital ("ASH") or another appropriate facility after a preliminary examination by a mental health facility.

Section 574.045, Health and Safety Code, details procedures for transporting a detained or committed mental health patient under Section 573.022 (Emergency admission and detention) or 574.023 (Apprehension under order), all necessitating authorization by a court, the mode of transportation being very flexible and restricted only by the degree to which medical assistance during such conveyance may be necessary. However, under Section 573.021, a preliminary examination of a mental health patient after being brought to a facility may quickly determine a need to hospitalize the patient at ASH, rather than hospitalize the patient in the initial facility, it being determined that a bed is available at Austin State Hospital or another such treatment facility. There is no court involvement in such scenario, but it is not clear that the mental health facility is free under such circumstances to arrange for transportation of the patient on its own without court involvement.

In such situation, may a patient be taken to ASH or a similar treatment facility by private conveyance arranged for by the initial mental health facility rather than requiring a court order under the provisions of Section 574.045? There is no case law to provide guidance. It would appear from the liberality of Section 574.045, which allows a court to authorize transportation by relatives or facility administrators, the same reasoning would apply. Even Section 573.22, involving an emergency admission and detention, authorizes a mental health facility to transport a patient once that patient is ordered detained. Your response would be greatly appreciated.

Yours very truly,



Rick Miller
Bell County Attorney