



JOHN MARK COBERN
 TITUS COUNTY ATTORNEY
 TITUS COUNTY COURTHOUSE
 100 WEST FIRST STREET
 MOUNT PLEASANT, TEXAS 75455

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 OPINION COMMITTEE

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Robert Arellano, Investigator

April 13, 2009

Honorable Gregg Abbott
 Attorney General of Texas
 P.O. Box 12548
 Austin, Texas 78711-2548

FILE # ML-46048-09
 I.D. # 46048

RQ-0795-GA

Attention: Opinions Division

Dear Sir:

In November 2008 the prior Titus County Attorney, Tim Taylor, requested an Attorney General's Opinion as to whether or not Titus Regional Medical Center must pay filing fees statutorily required by Section 118.055, Local Government Code, when Titus Regional Medical Center is the applicant for mental health services on behalf of a patient. This is a question that involves the public interest and concerns the official duties of the Titus County Clerk. Mr. Taylor received a response from you requesting a legal brief along with his request. Mr. Taylor never submitted the required legal brief. As the newly elected Titus County Attorney, I am requesting your opinion on this issue and have enclosed the required legal brief.

Sincerely yours,


 John Mark Cobern

JMC

TITUS COUNTY BRIEF TO THE OFFICE OF ATTORNEY GENERAL

John Mark Cobern
Titus County Attorney
100 West First Street
Mount Pleasant, Texas 75455

ISSUE

Is the Behavioral Health Unit (BHU) of Titus Regional Medical Center a "private facility" as defined in Section 118.055 of the Texas Local Government Code.

STATEMENT OF THE CASE

Titus Regional Medical Center is a general medical facility located in Mt. Pleasant, Titus County Texas and is operated by the Titus County Hospital District, a political subdivision created by statute in the mid 1960's. Titus Regional Medical Center operates a behavioral health unit as part of its facility. Periodically, Titus Regional Medical Center must make application on behalf of an indigent patient for mental health services to be provided to the patient at its behavioral health unit. Section 118.055 of the Local Government Code provides that certain costs and filing fees shall be paid by the applicant if the services requested are to be provided in a "private facility". Initially, the Titus County Clerk was not charging Titus Regional Medical Center the required costs and filing fees. After reviewing the statute, the Titus County Clerk has taken the position that Titus Regional Medical Center is in fact a private facility and has begun charging Titus Regional Medical Center costs and filing fees. Titus Regional Medical Center believes that it is not a private facility and therefore the costs and fees should be absorbed by Titus County.

ARGUMENT AND AUTHORITY

The Behavioral Health Unit (“BHU”) at Titus Regional Medical Center is operated as a unit of the Hospital. All patients of the Behavioral Health Unit are considered patients of the Hospital. They are registered and admitted through the Hospital’s admissions office, are billed by the Hospital using the Hospital’s provider number, and payment for their care is paid to the Hospital. The question is whether Titus Regional Medical Center is responsible for the payment of filing fees due to the Titus County Clerk for an action involving mental health services when the Hospital is the applicant on behalf of a patient. Section 118.055 of the Texas Local Government Code states: “the fees shall be paid by the person executing the application for mental health or chemical dependency services and are due at the time the application is filed if the services requested relate to services provided or to be provided in a *private facility*” (emphasis mine). Private facility is not defined anywhere in the Texas Local Government Code. Titus Regional Medical Center is not a state hospital, not part of the federal government, and not a mental hospital as defined by the Mental Health Code. Since Titus Regional Medical Center is not a state hospital, not part of the federal government, and not a mental hospital as defined by the Mental Health Code, Titus Regional Medical Center is a private facility and subject to the fees imposed by the Titus County Clerk.

Titus Regional Medical Center agrees that the Texas Local Government Code does not define private facility. Titus Regional Medical Center argues that the common definition of “private hospital” would not include an entity such as Titus Regional Medical Center. Titus Regional Medical Center is a political subdivision subject to the

Texas Open Meetings Act, Open Records Acts and a publically elected board. Therefore, Titus Regional Medical Center argues a common sense application of the definition would not include and entity such as Titus Regional Medical Center.

CONCLUSION

The Texas Local Government Code does not define private facility. However, Titus Regional Medical Center is not a state hospital, not part of the federal government, and not a mental hospital as defined by the Mental Health Code and therefore must be a private facility subject to costs and fees.

Respectfully submitted,

John Mark Cobern
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By: 

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