

# OFFICE OF THE ATTORNEY GENERAL



*Mental Health*  
80-00082

CHARLES A. GRADDICK  
ATTORNEY GENERAL  
STATE OF ALABAMA

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ADMINISTRATIVE BUILDING  
64 NORTH UNION STREET  
MONTGOMERY, ALABAMA 36130  
AREA (205), 834-5150

LEE L. HALE  
DEPUTY ATTORNEY GENERAL

WILLIAM M. BEKURS, JR.  
EXECUTIVE ASSISTANT

WALTER S. TURNER  
CHIEF ASSISTANT ATTORNEY GENERAL

JANIE NOBLES  
ADMINISTRATIVE ASSISTANT

Honorable Glenn Ireland, II  
Commissioner  
Department of Mental Health  
135 South Union Street  
Montgomery, Alabama 36130

Mental Health Department -  
Contracts - Expenses

Mental Health Department may contract with a professional recruiter to assist in recruiting employees in certain professional fields and may reimburse candidates for such positions their reasonable travel expenses incurred in attending a job interview in Alabama.

Dear Mr. Ireland:

I am in receipt of your letter dated November 8, 1979, in which you requested an opinion from this office regarding the recruitment of physicians, psychiatrists and psychologists at facilities operated by the Department of Mental Health and payment of certain expenses in connection with such recruitment. Your specific questions were as follows:

"1) Can the Alabama Mental Health Board expend funds of the Department of Mental Health to employ a professional recruiter to recruit physicians, psychiatrists and psychologists?

"2) Can the Alabama Mental Health Board expend funds of the Department of Mental Health to reimburse the physicians, psychiatrists or psychologists for reasonable expenses incurred by the candidate for attending an interview in Alabama?

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"3) Can the Alabama Mental Health Board expend funds of the Department of Mental Health to reimburse physician, psychiatrist or psychologist for house-hunting trips prior to relocation in Alabama?

"4) Can the Alabama Mental Health Board expend funds of the Department of Mental Health to reimburse the physician, psychiatrist or psychologist for reasonable relocation costs for moving household goods after acceptance of a job in Alabama?"

Your letter points out the emergency situation presently pending at Bryce Hospital as well as other facilities operated by the Department. You also mentioned previous recruitment efforts that had been unsuccessful. The United States District Court for the Middle District of Alabama in the case of Wyatt v. Stickney 344 Fed. Sup. 387 requires the Defendants, State of Alabama, the Governor, Alabama Mental Health Board, and Commissioner to comply with certain minimum constitutional standards, including the provision of adequate treatment and habilitation and sufficient staff to provide such habilitation for mentally retarded and mentally ill patients involuntarily committed to state facilities. Additionally, the Court Order requires certain minimum staffing ratios.

In light of the requirements placed upon you, the Alabama Mental Health Board, the Governor, and the State of Alabama to comply with said Order and with the emergency nature of the present situation, it is my opinion that your questions one and two should be answered in the affirmative.

The Department of Mental Health is empowered under Code of Alabama 1975, §22-50-11(4) to enter into contracts with any ". . . private person, organization or group capable of contracting, if it finds such action to be in the public interest." If you as Commissioner of Mental Health are of the opinion that it is in the best interest of the State of Alabama and the patients and residents under your care to enter into a recruitment contract, then you may do so under the authority of the

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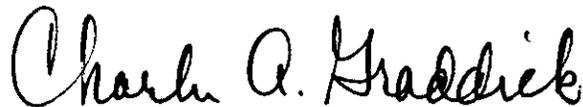
above quoted section. As to the payment of reasonable expenses incurred by the physician, psychiatrist or psychologist for attending an interview, if you feel like such action is required under the emergency situation in order to adequately recruit and hire physicians, psychiatrist and psychologist, then such action is authorized and the appropriate steps must be taken pursuant to the Wyatt Order.

I should point out that adequate documentation must be required in order to substantiate the validity of the expenses incurred in the recruitment process.

It is my opinion that your questions three and four should be answered in the negative. There is no statutory authority permitting the payment of expenses for house-hunting trips and for payment of moving expenses for individuals being hired by the Department. Such approval would have to be based on an emergency basis pursuant to the Court Order set out above. The implementation of the activities outlined in questions one and two should be sufficient to enable the Department to hire the necessary professional personnel and comply with that portion of the Court Order, thus eliminating that emergency.

I hope this will answer your questions concerning this matter. If you need any further information, please advise.

Sincerely yours,



CHARLES A. GRADDICK  
Attorney General