Opinions

Opinion No. KP-0242
The Honorable David Whitley
Texas Secretary of State
Post Office Box 12697
Austin, Texas 78711-2697
Re: Whether the Secretary of State is the "returning officer" under article III, subsection 13(a) of the Texas Constitution, and, if not, which officer serves in that role in a single-county legislative district (RQ-0247-KP)

SUMMARY

Article III, subsection 13(a) of the Texas Constitution provides that when vacancies occur in the Legislature, the returning officer of the district in which such vacancy occurred possesses authority to order a special election if the Governor does not do so within a set time. Pursuant to section 67.007 of the Election Code, the county clerk prepares and submits election returns for a single-county legislative district and is therefore the returning officer for purposes of article III, subsection 13(a).

Opinion No. KP-0243
Sherif Zaafran, M.D.
President
Texas Medical Board
Post Office Box 2018

Austin, Texas 78768-2018
Re: Whether members of the Physician Health and Rehabilitation Advisory Committee are entitled to legal representation by the Office of the Attorney General and indemnification under the Civil Practice and Remedies Code (RQ-0248-KP)

SUMMARY

Members of the Physician Health and Rehabilitation Advisory Committee serve in an advisory capacity and thus are not public officers. Accordingly, a court would likely conclude that the members are not entitled to legal representation by the Office of the Attorney General and indemnification under Civil Practice and Remedies Code chapter 104.

Chapter 108 of the Civil Practice and Remedies Code establishes limits on the liability of public officials appointed to serve a governmental unit. Under rules of statutory construction, a court would likely conclude that the Physician Health and Rehabilitation Advisory Committee members are public officials for purposes of the liability limits under chapter 108.

For further information, please access the website at www.texasattorneygeneral.gov or call the Opinion Committee at (512) 463-2110.

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Ryan L. Bangert
Deputy Attorney General for Legal Counsel
Office of the Attorney General
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