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Opinion No. 01-005

Duties of Emergency Medical Technicians and Emergency Medical "First Responders"

QUESTIONS

1. Does Tennessee law impose upon Emergency Medical Technicians an obligation or duty to provide medical services at all times to the exclusion of any other duties or obligations?

2. Are emergency service personnel permitted under Tennessee law to work for a first responder that limits its responses to only those calls involving life threatening situations?

OPINION

1. No. An Emergency Medical Technician ("EMT") is required to provide care under the regulations promulgated by the Emergency Medical Services Board only after having assumed a duty to provide such care in a given situation.

2. Yes. An Emergency Medical "First Responder" Service is required, in order to participate in a community Emergency Medical Services ("EMS") system, to develop and maintain a memorandum of understanding which shall provide policies and procedures that specify the nature of calls for which first response services will be dispatched, thereby acknowledging that not all types of calls will require a response by a first response service.

ANALYSIS

I.

The opinion request asks whether a volunteer firefighter, who is also licensed as an EMT, is required to provide emergency medical services at any time, even to the exclusion of his or her duties as a volunteer firefighter. For example, must a volunteer firefighter abandon his or her firefighting duties upon encountering anyone at, or on the way to, a fire scene who needs first aid?

The Emergency Medical Services Board ("Board") regulates emergency medical services in Tennessee, pursuant to Tenn. Code Ann. § 68-140-504. The Board has the power, responsibility and duty to promulgate regulations which may establish various categories and classifications of licenses, permits and certificates, under Tenn. Code Ann. § 68-140-504(2). Also included in this part are those acts which the Legislature has determined constitute prohibited conduct for EMS personnel, as codified at Tenn. Code Ann. § 68-140-511.

The fundamental rule of statutory construction and interpretation is to ascertain and give effect to the intention of the legislature.[1] The legislative intent is derived primarily from the natural and ordinary meaning of the language contained therein, when read in the context of the whole statute.[2] A court must give effect to every word, phrase, clause and sentence of an act in order to discern legislative intent properly.[3] A statute should be construed so that no section will invalidate another.[4]

The plain language of Tenn. Code Ann. § 68-140-511(6) prohibits Emergency Medical Technicians ("EMTs") or Emergency Medical Technician -Paramedics ("EMT-Ps") from:

> (a)bandoning or neglecting a patient requiring emergency care, **following assumption of duty**

(Emphasis added). Thus, the statute makes clear that an EMT or EMT-P cannot be said to have abandoned a patient unless he or she has already assumed the duty of caring for a given patient. This prohibition on abandoning or neglecting a patient requiring emergency care is also part of the regulations that govern proscribed acts of the EMT or EMT-P under Board regulations. Tenn. Comp. R. & Regs. Chap. 1200-12-1-.04(5)(f). However, again, the regulation specifies that a licensed individual can only be found to have abandoned or neglected a patient if such abandonment has occurred *following an assumption of duty*. Therefore, a licensed EMT or EMT-P would only have a duty to a patient *after* having assumed the responsibility of caring for that patient.

II.

The second question is whether a volunteer firefighter, who is also licensed as an EMT and works for an emergency medical first responder service, can respond only to calls that involve life-threatening situations to the exclusion of calls involving minor medical needs, or whether such an individual would be

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[1] *Mercy v. Olsen*, 672 S.W.2d 196, 200 (Tenn. 1984).

[2] *James Cable Partners, L.P. v. City of Jamestown*, 818 S.W.2d 338 (Tenn. App. 1991).

[3] *Dingman v. Harvell*, 814 S.W.2d 362 (Tenn. App. 1991).

[4] *Id.*

required to respond to all calls involving *any* sort of medical need.

The powers and duties of the Board are codified at Tenn. Code Ann. § 68-140-504. The Legislature has granted the Board the authority to establish standards governing the activities and operations of various categories of services which are licensed, permitted or certified by the Board. Tenn. Code Ann. § 68-140-504(3). One of the services which is licensed, certified and permitted by the Board is the emergency medical first responder service ("first responder"). Tenn. Comp. R. & Regs. Chap. 1200-12-1-.16. The regulations provide that:

> (a) licensed ambulance service classified as a primary provider shall coordinate first response services within its service area. First responder services shall meet the following standards for participation in the community EMS System.

Tenn. Comp. R. & Regs. Chap. 1200-12-1-.16(2). Among the standards required of a first responder is to develop a memorandum of understanding or agreement of coordination within the service area with the primary provider of emergency ambulance services. Tenn. Comp. R. & Regs. Chap. 1200-12-1-.16(2)(e). This required memorandum or agreement is to include policies and procedures as to the "(n)ature of calls for which first response services will be dispatched." Tenn. Comp. R. & Regs. Chap. 1200-12-1-.16(2)(e)(3). Therefore, the rules not only contemplate, but require, that a first responder service specify the types of calls to which it will respond. This indicates that certain other types of calls which are not specified would not be handled by the first responder service. Moreover, the regulations also specify that a first responder service only is permitted to make an official response as based on specific policy guidelines, and that unofficial responses by first responder services are not authorized. Tenn. Comp. R. & Regs. Chap. 1200-12-1-.16(7).

As such, it is clear that the operative regulations allow a first responder service to limit its responses to only certain types of calls, as set forth in its memorandum of understanding or agreement of coordination, and prohibit a first responder service from making unofficial responses.

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