S T A T E O F T E N N E S S E E
OFFICE OF THE
ATTORNEY GENERAL
500 CHARLOTTE AVENUE
NASHVILLE, TENNESSEE 37243-0497

July 28, 2003

Opinion No. 03-093

Tort Liability of Emergency Medical Technicians and Paramedics

QUESTION

To what extent are emergency medical technicians (EMTs) and paramedics personally immune from tort suits?

OPINION

EMTs and paramedics are immune from liability, except for negligence, for following the orders of a physician or nurse in rendering emergency care. They are not subject to liability for honoring Do Not Resuscitate orders pursuant to Title 68, Chapter 40, Part 6. Further, EMTs and paramedics are immune from liability, except for negligence, for withdrawing blood at the written request of a law enforcement officer for the purpose of testing the alcoholic or drug content to determine if the person was operating a vehicle or vessel under the influence of an intoxicant.

EMTs and paramedics voluntarily and in good faith providing emergency care at the scene of an accident, medical emergency and/or disaster, while en route from such scene to a medical facility, or while assisting medical personnel at the receiving medical facility are not liable for damages except for acts of gross negligence. In addition, they are not liable for damages except for acts of gross negligence for rendering emergency care at gatherings open to the general public.

As of July 1, 2001, EMTs and paramedics employed by local governmental entities as defined by the Governmental Tort Liability Act are immune from any claim for damages, including medical malpractice, for which the immunity of the governmental entity is removed by the act. EMTs and paramedics employed by the State are immune for acts or omissions within the scope of their office or employment except for willful, malicious, or criminal acts or omissions, or for acts or omissions done for personal gain.

ANALYSIS

EMTs and paramedics are immune from civil and criminal liability, except for negligence, for following the orders of a physician or nurse in rendering emergency care. Tenn. Code Ann. §68-140-512(a). In addition, they are not liable for trespass when rendering services in good faith in compliance with the Emergency Medical Services Act of 1983. Tenn. Code Ann. §68-140-512(b).

Emergency medical services personnel are not subject to criminal prosecution or civil liability as a result of honoring Do Not Resuscitate orders pursuant to Title 68, Chapter 140, Part 6. Tenn. Code Ann. §68-140-604. Licensed paramedics, and licensed EMTs approved to establish intravenous catheters, acting at the written request of a law enforcement officer, who withdraw blood from a person for the purpose of testing the alcoholic or drug content to determine if the person was driving a motor vehicle or vessel under the influence of an intoxicant or drug, do not incur any civil or criminal liability as a result of the act of withdrawing blood except for damages resulting from any negligence. Tenn. Code Ann. §§55-10-406(a)(1); 69-10-217(d)(3).

Pursuant to the Good Samaritan Law, EMTs and paramedics providing voluntary emergency care in good faith at the scene of an accident, medical emergency and/or disaster, while en route from such scene to a medical facility, or while assisting medical personnel at the receiving medical facility are not liable for damages for the care provided or for any act or failure to act to provide additional care except for acts or omissions constituting gross negligence. Tenn. Code Ann. §63-6-218(b). In addition, EMTs and paramedics rendering emergency care to persons attending or participating in performances, sporting events, or other gatherings open to the general public, with or without an admission charge, whether or not the emergency care is made available as a service, or planned in advance, are not liable for damages for the care rendered or for any act or failure to act to arrange for further medical care except for acts or omissions constituting gross negligence. *Id.*

As of July 1, 2001, EMTs and paramedics employed by local governmental entities as defined by the Governmental Tort Liability Act, Tenn. Code Ann. §§29-20-101, *et. seq*., are immune from any claim for damages, including medical malpractice, for which the immunity of the governmental entity is removed by the act. Tenn. Code Ann. §29-20-310; *Hill v. City of Germantown*, 31 S.W.3d 234, 237-38 (Tenn. 2000). EMTs and paramedics employed by the State are immune for acts or omissions within the scope of their office or employment except for willful, malicious, or criminal acts or omissions, or for acts or omissions done for personal gain. Tenn. Code Ann. §9-8-307(h).

PAUL G. SUMMERS
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

KIMBERLY J. DEAN
Deputy Attorney General

Requested by:

The Honorable Mike Turner
State Representative
202 War Memorial Bldg
Nashville, TN 37243-0151