1981 WL 158008 (S.C.A.G.)

Office of the Attorney General

State of South Carolina
October 8, 1981

***1 Re: Emergency Medical Services-Liability**

Carol Latimer-Clemenz
Executive Director
S.C. Midlands EMS
3325 Medical Park Road
Suite 216
Columbia, South Carolina 29203

Dear Ms. Latimer-Clemenz:
You have requested an opinion of this Office regarding the potential liability of emergency medical services personnel for a refusal to transport persons who are not in life or limb threatening situations. You describe the situation as including persons who request ambulance transportation to or from medical care but are physically able to utilize other private or public transportation. You have also asked what the legal liability would be for emergency medical services personnel who after consultation with a physician by radio or telephone or in person refuse transportation of those persons.

The provision of emergency medical services in this State is generally governed by the Emergency Medical Services Act of South Carolina (§ 44-61-10 et seq. of the 1976 Code of Laws of South Carolina, as amended) and regulations duly promulgated pursuant thereto (Regulation 61-7 of the 1976 Code). A review of those provisions discloses no specific reference to the liability of emergency medical services personnel for refusal to transport persons who are not in life or limb threatening situations. Accordingly, we must examine the general law for guidance.

As a general rule, there is no duty to aid an injured person except when an individual has caused or aggravated the person's injury. However, once an individual begins to render aid, a duty arises to render this aid in a manner consistent with the standard of care. II Hospital Law Manual 5, Admission and Discharge (1917). Therefore, once ambulance personnel begin to render assistance to injured persons, regardless of whether they are in a life or limb threatening situation, they generally must continue to act in a reasonable manner in accordance with the standard of care which is appropriate under the circumstances. Of course, consultation with a physician will probably help them discharge their duties in such a manner as to avoid any ultimate liability, except for negligent or reckless conduct.

The situation is similar to that involved in the admission of patients to a hospital. Ordinarily hospitals do not have to admit an individual as a patient, but once the hospital exercises control over the individual it is under a duty to act reasonably, to avoid aggravating the injury, and to avoid placing the patient in greater danger. Id.

Therefore, it can be argued that once an ambulance answers a call and emergency medical services personnel examine an individual, a duty of care arises. Under this duty ambulance personnel would have to act reasonably in their treatment or non-treatment in order to avoid the problems discussed above. However, in my opinion, it would be extremely difficult if not impossible to hold emergency medical services personnel liable for a refusal at the outset to undertake non-emergency activities such as transporting patients for scheduled visits to a physician's office or hospital for treatment, routine medical examination, x-rays or laboratory tests or upon discharge from a hospital or nursing home to a hospital, nursing home, or residence, or any other calls dispatched within the county as a non-emergency. Once a non-emergency activity is initiated, however, a duty to act reasonably and in accordance with the standard of care would apply and liability for failure to so act could attach.

***2** I trust the preceding discussion adequately answers your questions, however, if any further explanation or assistance is required, please do not hesitate to contact me.

Very truly yours,

Richard R. Wilson
Assistant Attorney General

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