

1977 S.C. Op. Atty. Gen. 317 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-386, 1977 WL 24723

Office of the Attorney General

State of South Carolina

Opinion No. 77-386

December 8, 1977

*1 Mr. Henry L. Thompson
Oconee County Safety Officer
Route 3, Box 139
Westminster, South Carolina 29693

Dear Mr. Thompson:

In response to your letter, enclosed please find the provisions of the Emergency Medical Services Act of South Carolina (Sections 44-61-10, et seq., Code of Laws of South Carolina; 1976) which you requested.

As to your question of whether an ambulance attendant two is not an emergency medical technician within the provisions of the above act is liable to a patient for any civil damages through suit brought as a result of any services provided that particular patient, please be advised of the provisions of Section 15-1-310, Code of Laws of South Carolina, 1976, more commonly known as the 'Good Samaritan Law,' which provides statutory immunity in some instances where emergency care is rendered. The statute states that:

'Any person, who in good faith gratuitously renders emergency care at the scene of an accident or emergency to the victim thereof, shall not be liable for any civil damages for any personal injury as a result of any act or omission by such person in rendering the emergency care or as a result of any act or failure to act to provide or arrange for further medical treatment or care for the injured person, except acts or omissions amounting to gross negligence or wilful or wanton misconduct.'

Unless the ambulance attendant meets the provisions of this particular statute, he would not be immune from any civil liability under this statute. As you can see, this particular statute relieves from civil liability only such persons who gratuitously render emergency care at the scene of an accident or emergency to the victim thereof provided the acts or omissions to act do not constitute gross negligence or wilful or wanton misconduct. However, varying circumstances and other possible defenses which would limit or deny civil liability may influence any such liability for a particular case and thus it is not possible to provide a simple answer to the question of possible civil liability in all instances.

Please be advised however that the aforementioned Emergency Medical Services Act in Section 44-61-80, supra, states that all ambulance attendants shall obtain proper certification. Section 44-61-100, supra, exempts only the following vehicles from the provisions of this particular act:

(a) Ambulances owned and operated by the Federal Government.

(b) A vehicle or vehicles rendering assistance to community ambulances in the case of a catastrophe when licensed ambulances in the locality are insufficient to render the required services.

(c) The use of a privately or publicly owned vehicle, not ordinarily utilized in the transportation of persons who are sick, injured or otherwise incapacitated and operating under the provisions of Section 15-1-310 (Good Samaritan Act) in the prevention of loss of life and alleviation of suffering.'

*2 Therefore, in further response to your question relating to an ambulance attendant who is not a certified emergency medical technician within the above act serving on an ambulance, it would appear to me that unless the ambulance was within one of the aforementioned exemptions, to include in the staffing of the ambulance an individual who is not a certified emergency medical technician would be improper.

This would in my opinion increase the likelihood of possible civil liability to patients since they would be receiving attention by an individual not properly certified.

If there any any further questions, do not hesitate to contact me.

Sincerely,

Charles H. Richardson

Staff Attorney

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