



ALAN WILSON
ATTORNEY GENERAL

October 30, 2018

Mr. Chris Cothran
SC Midlands EMS
3201 Leaphart Road
West Columbia, SC 29169

Dear Mr. Cothran:

We received your letter dated August 30, 2018 for a response. The following is this Office's understanding of your question and our opinion based on that understanding.

Issue (as quoted from your letter):

"South Carolina Midlands Emergency Medical Services Management Association ("Midlands EMS" for short) was chartered in 1977 under SC Code of Laws 44-7-2010 as a Health Service District, and includes 15 counties as members. The purpose is to provide training (Paramedic, Emergency Medical Technician and other training programs) and technical assistance for those member counties. Member counties include: Abbeville, Aiken, Chester, Edgefield, Fairfield, Greenwood, Kershaw, Lancaster, Laurens, Lexington, McCormick, Newberry, Richland, Saluda, York. The same services are also provided for other counties, hospitals, businesses, veterans and the general public when asked.

This association of counties is governed by a Board of Directors in compliance with 44-7-2020 through 2070, and each county representative is usually the EMS Director of that county as they have the most vested interests in our purpose and operation. This Board approves, among many things, the training requirements that we use to operate our programs.

Member counties typically send their Emergency Medical Technicians to this office for the 16 month paramedic training program. Paramedic training is the most visible as well as time and resource-consuming function of this office. Part of the process of training paramedics and EMT's include field internships for each student during their program of study. Historically we have allowed students employed by member counties without having a written contract or Memorandum of Agreement between these member counties. For example, paramedic students employed by Fairfield County EMS may also complete field internship requirements at Richland County EMS due to a higher call volume.

The reason has been two-fold. First, 44-7-2310(3) states the member counties of this association are "To provide training for emergency medical technicians and facilities for the conduct of such training." Second, the members of the Board are the representatives of each county, and are the employers of these students with a large vested interest in their success. Not only are they aware of this practice, they approve it.

For internships conducted with non-members written contracts are signed. For example Orangeburg and Calhoun Counties are assigned to another region, and if the need exists for students to ride with their

Mr. Chris Cothran
Page 2
October 30, 2018

EMS service a contract is signed. Contracts are also signed with hospitals, as they are not members of this association of counties.

Note: For ALL students have malpractice, tort and workers compensation insurances through the state Office of Insurance Reserve to cover them specifically when conducting internships, regardless of what county employs the student.

The question we seek clarification on is (hopefully) a simple one. Is it correct legal interpretation for this office NOT to have a specific contract for field internships between member counties as it is viewed the charter under 44-7-2010 (and subsequent sections that apply to our operation) actually serves as a perpetual memorandum of agreement to allow cross-county internships."

Law/Analysis:

This Office has opined in numerous opinions that we, like a court, generally defer administrative determinations to administrative agencies. See, e.g., Op. S.C. Att'y Gen., 2013 WL 1803941 (April 23, 2013) (citing Goodman v. City of Columbia, 318 S.C. 489, 458 S.E.2d 531 (1995)). In one such prior opinion, this Office advised that an administrative decision by the State Budget and Control Board need only be reasonable and has supported the Board's denial of political subdivision's inclusion within the State Health Plan. See Op. S.C. Att'y Gen., 2001 WL 564572 (S.C.A.G. March 28, 2001 to Chris K. Cothran, MHS). Thus, we would first advise you to seek the counsel of the administrative agency with jurisdiction where applicable. Nevertheless, in prior opinions, this Office has opined that a regional health service district created pursuant to South Carolina Code § 44-7-2010 was a political subdivision of the State. See Ops. S.C. Att'y Gen., 2016 WL 963695 (S.C.A.G. February 12, 2016); 1987 WL 245488 (S.C.A.G. September 14, 1987); 1981 WL 158178 (S.C.A.G. March 11, 1981); 1964 WL 8330 (S.C.A.G. July 30, 1964). As a political subdivision, a regional health service district only has those powers statutorily given to it. See, e.g., Captain's Quarters Motor Inn, Inc., v. S.C. Coastal Council, 306 S.C. 488, 490, 413 S.E.2d 13, 14 (1991) ("As a creature of statute, a regulatory body is possessed of only those powers expressly conferred or necessarily implied for it to effectively fulfill the duties with which it is charged.") (citing City of Rock Hill v. South Carolina Department of Health and Environmental Control, 302 S.C. 161, 394 S.E.2d 327 (1990); City of Columbia v. South Carolina Department of Health and Environmental Control, 292 S.C. 199, 355 S.E.2d 536 (1987)); Op. S.C. Att'y Gen., 1990 WL 599185 (S.C.A.G. May 15, 1990) ("Counties and municipalities are political subdivisions of the State and have only such powers as have been given to them by the State, such as by legislative enactment") (citing Law v. City of Spartanburg, 148 S.C. 229, 146 S.E. 12 (1928)). A regional health service district has statutory authority to "provide instruction and training for and to contract for the instruction and training of nurses, technicians, and other technical, professional, and paramedical personal." S.C. Code Ann. § 44-7-2157(2). A regional health service district also has statutory authority to "affiliate with and contract to provide training and clinical experience for students of other institutions." S.C. Code Ann. § 44-7-2157(3). Section 44-7-2157 states that:

Upon incorporation, the district has the following powers which are in addition to those powers, duties, and authority conferred upon it by Act 490 of 1976:

- (1) To lease or otherwise make available any health care facilities or other of its properties and assets under such terms and conditions as the board considers appropriate.

- (2) To provide instruction and training for and to contract for the instruction and training of nurses, technicians, and other technical, professional, and paramedical personnel.
- (3) To affiliate with and to contract to provide training and clinical experience for students of other institutions.
- (4) To contract for the operation of any department, section, equipment, or holdings of the district and to enter into those contracts which, in its judgment, are in the best interest of the district.
- (5) To assume any obligations of any entity that conveys and transfers to the district any health care facilities or other property or interests therein.
- (6) To make any expenditure of any monies under its control that would be considered as ordinary and necessary expenses of the district within the meaning of state and federal taxation laws.
- (7) To provide scholarships for students in training for work in the duties peculiar to health care.
- (8) To enter into affiliation, cooperation, territorial management, or other similar agreements with other institutions for the sharing, division, allocation, or exclusive furnishing of services, referral of patients, management of facilities, and other similar activities.

Nothing contained in this article may be considered to affect or alter the existing laws as they relate to the rights, privileges, medical staff membership, or remedies of physician members of the medical staff of hospitals, hospital facilities, or health care facilities. No district has the power to levy taxes.

S.C. Code Ann. § 44-7-2157 (1976 Code, as amended). Thus, if the regional health service district itself is providing the “instruction and training” pursuant to its statutory authority in § 44-7-2157, it has the requisite authority to directly provide the “instruction and training.” If the regional health service district is contracting with an entity outside its legal entity for the “instruction and training,” the contract should be, as a best practice, in writing. Id. Moreover, where the regional health service district contracts to provide “training and clinical experience for students of other institutions,” any such contract should likewise be, as a best practice, in writing. Id. The legal question is not where the training is located but under whose authority it is being provided.

Conclusion:

This Office believes a court will find that a regional health service district has statutory authority to provide “instruction and training” for the “training of nurses, technicians, and other technical, professional, and paramedical personnel” and may also contract with other entities or people for the “instruction and training of nurses, technicians, and other technical, professional, and paramedical personnel” pursuant to South Carolina Code Ann. § 44-7-2157. See also S.C. Code Ann. § 44-7-2310(3). Where a health service district contracts for “instruction and training” with other institutions, we advise such contracts be in writing as a best practice. The health service district itself, pursuant to its own statutory authority such as South Carolina Code Ann. § 44-7-2157, may provide a service described within its statutory authority to students within its own institutions. Any such decision to provide a service must be made in accordance within the procedures, policies, and statutory authority of the regional health service district. Nevertheless, this Office is only issuing a legal opinion based on the current law at this time and the information as provided to us. This opinion is not an attempt to comment

Mr. Chris Cothran
Page 4
October 30, 2018

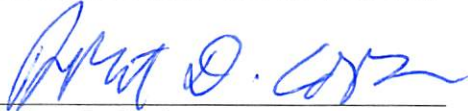
on any pending litigation or criminal proceeding. Until a court or the General Assembly specifically addresses the issues presented in your letter, this is only an opinion on how this Office believes a court would interpret the law in the matter. This opinion only addresses some of the sources in the subject area, but we can address other authority or additional questions in a follow-up opinion. Additionally, you may also petition the court for a declaratory judgment, as only a court of law can interpret statutes and make such determinations. See S.C. Code Ann. § 15-53-20. If it is later determined otherwise, or if you have any additional questions or related issues, please let us know.

Sincerely,



Anita (Mardi) S. Fair
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General