

June 21, 2012

Emergency Medical Service Operations and County Government

Tennessee county governments are authorized to provide emergency medical services (EMS). This authorization is granted by Tennessee Code Annotated (TCA) § 7-61-102 “The governing body of any county or city of the state of Tennessee may provide and maintain and do all things necessary to provide ambulance service as a public service.”

While counties are authorized to provide EMS, they are not required to provide those services. In Tennessee, there are several different ways that counties ensure that the citizens are provided with adequate emergency medical care. They include:

- County government operated exclusive provider
- County EMS providing emergency (911) transportation with a third party ambulance provider for non-emergency transports
- Third party EMS services with or without regulation by county government

As mentioned above, regulation of third party ambulance services is authorized by TCA § 7-61-103: “The governing body of any county or city may license, franchise, or contract for private operators or nonprofit general welfare corporations to provide ambulance service. In order to protect the public health and welfare, any county or city may adopt and enforce reasonable regulations to control the provision of private or nonprofit ambulance service.”

The regulation of third party EMS services is essential to ensure that the acceptable level of emergency medical service is provided to the citizens. These regulations may include a performance based contract with penalty provisions for non-compliance or the determination that it is in the best interest of the county to be the sole provider of ambulance services.

The Tennessee Court of Appeals found in *Morristown Emergency and Rescue Squad, Inc. v. Volunteer Development Company, Inc.* that the ambulance service is a public service and that a lack of regulation and control over these services could injure the public. Additionally, under state law, the decision of a county commission not to recognize an additional ambulance service will not be reviewed by the courts unless a challenger can prove such fraud or abuse. Therefore, the legislature has clearly shown intent with respect to ambulance services to allow county governments to replace open competition with regulation or monopolistic power.

Counties are authorized to provide ambulance service to cities or another county as long as the governing body of that city or county has formalized the arrangement. TCA § 7-61-104 states:

(a) No county may provide and maintain, license, franchise, or contract for ambulance service within the boundaries of a city or another county, and no city may provide and maintain, license, franchise, or contract for ambulance service outside its corporate boundaries, without the approval of the governing body of the area to be served.

(b)(1) Except as provided in subdivision (b)(2), any two (2) or more counties and municipalities may enter into agreements with each other and with persons providing both emergency and non-emergency ambulance service for a county or counties on a county-wide basis, for joint or cooperative action to provide for ambulance service as authorized in this chapter.

Counties that have determined that it is in the best interest to provide exclusive service of emergency and non-emergency ambulance service must enter into an interlocal agreement with the cities in the county to ensure that the county ambulance service is the sole provider.

In summary, counties are authorized but not required to provide an ambulance service. Counties may choose to provide the ambulance service exclusively or to regulate third party services. The decision to provide the service exclusively will not be reviewed by the courts without evidence of fraud or abuse by the county.