OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable George W. Cox
State Health Officer
Texas State Board of Health
Austin, Texas

Dear Sir:

Opinion No. O-5596
Re: Should a firm located in a small town and operating only one ambulance be required to obtain a permit from the State Board of Health if the ambulance is used less than five times each year for emergency calls. and related questions.

This will acknowledge receipt of your letter of recent date requesting the opinion of this department upon the above stated and related questions. Your letter reads as follows:

"In connection with the enforcement of Senate Bill #230, Act of 48th Legislature, 1943, an Act regulating public and private emergency ambulances operating in the State of Texas, several questions have been asked of this department. I should like to obtain your interpretation and opinion regarding the following questions:

"1. Should a firm located in a small town and operating only one ambulance be required to obtain a permit from the State Board of Health if the ambulance is used less than five times each year for emergency calls?

"2. Should a firm located in one of the larger cities of Texas operating several ambulances obtain permits from the State Board of Health for each of its ambulances and equip them in accordance with the provisions of this Act? If this firm has obtained a permit for three of its ambulances and

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and equipped them accordingly, is it necessary for the firm to equip its fourth and fifth ambulance and obtain a permit if the two latter ambulances are used only three or four times a year for emergencies?

"3. Should ambulances used for the transportation and conveyance of sick patients be required to obtain a permit from the State Board of Health; that is, if they are used only for transporting convalescents or sick patients from a hospital to a residence and not for emergency calls?

"4. Would an applicant be allowed to obtain permits for more than one ambulance when he possessed equipment for only one with the intention of inter-changing this equipment and placing it in the ambulance making the emergency call?"

We quote in part from Senate Bill 230, 48th Legislature, insofar as we think is pertinent in answering your request, as follows:

"Section 1. No person, firm or corporation shall operate or cause to be operated in the State of Texas, any emergency ambulance, public or private, or any other vehicle commonly used for the transportation or conveyance of the sick or injured, without first securing a permit therefor from the State Board of Health as hereinafter provided.

"Sec. 2. Every ambulance, patrol automobile or vehicle hereinafter described, before permit is issued therefor, shall be equipped with and, when in service, carry as minimum equipment the following:

"(a) A first aid kit;

"(b) Traction splints for the proper transportation of fractures of the extremities.

"Sec. 3. Every such ambulance or vehicle hereinabove described, when in service, shall be accompanied by at least one person who has acquired

theoretical or practical knowledge in first aid as prescribed and certified by the American Red Cross, evidenced by a certificate issued to such person by the State Board of Health.

". . . .

"Sec. 4. Application for a permit to operate any such ambulance or other vehicle hereinabove described, on the streets of any city or on the highways of this state, shall be made upon a form prescribed by the State Board of Health. . . .

"Each permit shall be numbered and posted at such place in the interior of the ambulance or vehicle as the State Board of Health may prescribe.

". . . ."

Your first question is answered in the affirmative. Section 1 of Senate Bill 230, in rather plain language prohibits any emergency ambulance to be operated in the State of Texas without a permit having first been secured in accordance with the terms of this Act. Since the Legislature has not stated what constitutes an emergency ambulance and in view of the entire language of the bill, we feel constrained to hold that any ambulance used for emergency calls, notwithstanding the number, is within the purview of this Act. To rule otherwise, in absence of more specific language in this regard, would leave this precise question open to conjecture.

We likewise answer both parts of your second question in the affirmative. Section 2 of this bill requires that every ambulance, before a permit is issued, shall be equipped with and, when in service, carry certain prescribed equipment. Our last quotation from the Act requires the permit to be posted at some place in the interior of the ambulance. This wording, together with Section 4, rather strongly indicates there must be a permit issued for each emergency ambulance, and before such permit is issued, each ambulance must be properly equipped in accordance with the provisions of this Act. We can find no language in the bill which would manifest a conclusion to the contrary. We refer to our answer to your question number one together with the above in regards to the latter portion of your second question.

In our Opinion No. O-5580, we hold permits must be secured for ambulances which were never used for emergency calls, but only to carry patients to and from hospitals on non-emergency missions. A copy of that opinion is enclosed.

Your fourth question is answered in the negative. As we attempted to point out in discussing your second question, Sections 2 and 4 of Senate Bill No. 250 require that every applicant seeking a permit under this Act must first show that his particular vehicle is properly equipped in accordance with its provisions. It seems therefore that before a permit may be issued, the particular vehicle must be properly equipped, especially so in view of the above language and the absence of any language or inference permitting any interchanging of equipment among ambulances.

We trust the foregoing fully answers your questions.

Yours very truly

ATTORNEY GENERAL OF TEXAS

Grover Sellers

By Robert O. Koch

Robert O. Koch
Assistant

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Enclosure

APPROVED
OPINION
COMMITTEE
BY GWB
CHAIRMAN