

**DEPARTMENT OF PUBLIC HEALTH
OFFICE OF EMERGENCY MEDICAL SERVICES**

IN RE: Declaratory Ruling - Ensign Bickford Industries, Inc.

Parties: Ensign-Bickford Industries, Inc.
10 Mill Pond Lane
P.O. Box 7
Simsbury, CT 06070

By authority of Conn. Gen. Stat. § 4-176 and Conn. Agencies Reg. § 19-2a-31, the Department of Public Health issues a declaratory ruling regarding the applicability of Conn. Gen. Stat. § 20-9(b)(3) as it relates to Ensign - Bickford Industries, Inc.'s (EBI) use of its security guards in the provision of emergency medical services within its complex.

I.

BACKGROUND AND PROCEDURAL SUMMARY

On March 17, 1995, Ensign - Bickford Industries, Inc. (EBI) petitioned the Department of Public Health¹⁷ for a declaratory ruling regarding the applicability of Conn. Gen. Stat. § 20-9(b)(3) to the use its security guards to render initial emergency medical services at its complex in Simsbury, Connecticut, prior to the arrival at the scene of an emergency medical services provider.

On March 17, 1995, EBI was notified by the Department that it would issue a declaratory ruling regarding the applicability of Conn. Gen. Stat. § 20-9(b)(3) as it relates to EBI's use of its security guards in the provision of emergency medical services within its complex.

¹⁷ As of July 1, 1995, the Department of Public Health and Addiction Services became known as the Department of Public Health. See Conn. Pub. Act. No. 95-257.

Conn. Gen. Stat. § 4-176 authorizes administrative agencies to issue declaratory rulings:

- (a) Any person may petition an agency, or an agency may on its own motion initiate a proceeding, for a declaratory ruling as to the validity of any regulation, or the applicability to specified circumstances of a provision of the general statutes, a regulation, or a final decision on a matter within the jurisdiction of the agency

The agency has discretion in deciding whether or not to hold a hearing prior to issuing a ruling.

Conn. Gen. Stat. § 4-176(g). The Department decided not to hold a hearing in this matter. EBI

was ordered to submit certain documents to the Department by July 1, 1995 as follows:

1. A copy of the qualifications EBI requires in order to act in the employ of EBI as a member of their security force. Such qualifications should include pre-employment requirements as well as any additional requirements necessary in order to maintain employment (i.e., maintenance of certification as an Emergency Medical Technician, etc.).
2. A copy of the duties required of security guards employed by EBI.
3. Operational or procedure manuals pertaining to the activities of EBI security guards (if such materials exist).
4. Any other materials you may feel to be relevant regarding the matter at hand.

On June 30, 1995, EBI submitted the following documents:

1. Copy of newspaper advertisement with a description of security officer duties.
2. Job Opening Notice Bulletin dated February 11, 1995 with a description of security officer duties.

II.
RELEVANT STATUTORY AND REGULATORY SECTIONS

Conn. Gen. Stat. § 20-9:

- (a) No person shall, for compensation, gain or reward, received or expected, diagnose, treat, operate for or prescribe for any injury, deformity, ailment or disease, actual or imaginary, of another person, nor practice surgery, until he has obtained such a license as provided in section 20-10, and then only in the kind or branch of practice stated in such license.
- (b) The provision of this chapter shall not apply to: ... (3) any person who furnishes medical or surgical assistance in cases of sudden emergency; ...

Conn. Agencies Reg. § 19a-179-9(i):

No person, regardless of certification, shall independently perform treatment methods identified in Section 19a-179-12(b) unless acting as part of the emergency medical services system, in accordance with Section 19a-179-12.

Conn. Agencies Reg. § 19a-179-12(b):

(b) MICS Authorization for Patient Treatment

- (1) Certified MIC personnel functioning with an approved MICS are authorized to perform the following medical care treatments under medical control:
 - (A) EMT-Intermediates (EMT-I's) may:
 - (i) Administer intravenous solutions.
 - (ii) Apply pneumatic antishock garment.
 - (iii) Perform pulmonary ventilation by esophageal obturator airway or esophageal-gastric tube airway.

(B) EMT-Paramedics (EMT-P's) may:

(i) Administer intravenous solutions.

(ii) Perform pulmonary ventilations by intubation

(iii) Apply pneumatic antishock garment.

(iv) Administer parenteral medication included in approved protocols.

(v) Perform cardiac defibrillation.

(vi) Perform other procedures and treatments as indicated by patient need when consistent with training and ability and protocols.

(2) Persons other than certified MIC personnel who function with an approved MICS may be authorized to perform any of the medical care treatments under medical control set forth in subsection (b)(1) above provided that:

(A) all other criteria of this section are met; and,

(B) prior application is made and written approval of OEMS is obtained based on its determination that such personnel can perform said treatments at least as proficiently as persons who are certified. Such persons shall be registered but not certified by OEMS.

(3) Prior to licensure or certification, a MICS must submit a roster of its mobile intensive care personnel to its sponsor hospital and to OEMS. The roster must be corrected as changes occur.

Conn. Agencies Reg. § 19a-179-9(h):

No person, acting as part of the emergency medical services system, shall perform treatment methods beyond that for which the responding service is certified.

III.
FINDINGS OF FACT

1. Ensign - Bickford Industries, Inc. (EBI) and its subsidiary companies maintain headquarters and approximately a 950 - person workforce in Simsbury, Connecticut.
2. Ensign - Bickford Realty Corporation (EBR), a subsidiary of EBI, owns and operates a business park, also in Simsbury, Connecticut, with numerous tenants, a restaurant, and approximately 400 employees.
3. EBI employs a 10 - member security force. All security officers are sworn Hartford County Deputy Sheriffs and are also trained as Emergency Medical Technicians (EMTS).
4. Security officers hired by EBI are required as a condition of employment to be current State of Connecticut Emergency Medical Technicians.
5. The security officer duties require "emergency response."
6. During the course of their employment, the security officers are utilized to render initial basis emergency care at a scene where a patient is in need of emergency medical assistance and the emergency medical services provider, Simsbury Volunteer Ambulance Association, Inc., has not yet arrived at the scene.

IV.
DISCUSSION AND CONCLUSIONS OF LAW

In a formal opinion regarding the scope of authority that emergency medical personnel have to render care and treatment to persons other than in their relationship to an emergency medical services provider, the Attorney General opined that Conn. Agencies Reg. § 19a-179-12(b)(1)(B)(vi), in conjunction with the proscriptions contained in Conn. Agencies Reg. § 19a-179-9(b) and § 19a-179-9(i), prohibits emergency medical personnel from acting in

such capacity independently of the emergency medical services system. Conn. Op. Atty. Gen. (12/30/91) (Attachment A).

An emergency medical services system is defined to mean "a system which provides for the arrangement of personnel, facilities, and equipment for the efficient, effective, and coordinated delivery of health care services under emergency conditions." Conn. Gen. Stat. § 19a-175(a). The components of an emergency medical service system facilities, include emergency room facilities, and transportation services. See Conn. Gen. Stat. § 19a-177(e)(2) and (e)(4) and § 19a-178(a)(1) and (a)(2). Also, an "emergency medical services provider" is defined as "a person, association, or organization who provides immediate and/or life saving transportation and medical care way from a hospital to a victim of sudden illness or injury, and who may also provide invalid coach services." Conn. Agency Reg. § 19a-179-1(g). (footnote omitted). See also Conn. Agency Reg. § 19a-179-21(a)(4) (provider means an ambulance service issued a certificate of operation or license by the office of emergency medical services). Cf. Conn. Gen. Stat. § 19a-175(j) (emergency medical services organization means any organization which offers transportation or treatment services to patients under emergency conditions). Thus, emergency medical personnel may not render treatment to persons other than in their relationship to an emergency medical services provider or emergency medical service facilities, including emergency room facilities.

Id.

Moreover, as to Conn. Gen. Stat. § 20-9 regarding who may practice medicine or surgery, the specific licensure provisions for emergency medical personnel allow for the functioning of such personnel in that capacity within the emergency medical services system without there being a violation of section 20-9. However, treatment rendered by emergency medical personnel independently of the emergency medical services system (or an emergency medical services provider) renders such personnel subject to a violation of section 20-9 for practicing medicine without a license. Id.

The prohibitions regarding who may practice medicine and surgery do not apply "to any person who furnishes medical or surgical assistance in cases of sudden emergency." Conn. Gen.

Stat. § 20-9(b)(3). Thus, generally speaking, the prohibitions against practicing medicine without a license in section 20-9 would not apply to instances where assistance is provided by persons trained as EMTS where assistance is provided in cases of sudden emergency. However, while section 20-9 exempts persons who furnish medical or surgical assistance in cases of sudden emergency, where personnel are specifically enlisted to be present in anticipation of rendering emergency medical assistance, this exception would not be applicable. It is generally understood that an emergency is something which reasonably may not be anticipated. See Black's Law Dictionary at p. 622 (6th ed.). Thus, a mere necessity for quick action does not constitute an emergency where the situation calling for such action is one which reasonably is anticipated and which the person rendering assistance is prepared to meet. See, e.g., Kuist v. Curran, 116 C.A.2d 404, 253 P.2d 681, 685; State v. Graves, 119 Vt. 205, 122 A.2d 840, 846 (1956).

In the present case, EMT training is one of the conditions of employment for EBI security officers. Said officers are routinely utilized to provide emergency medical assistance pending arrival of the recognized ambulance service. Emergency medical response by EBI security officers is not incidental to the officers' other duties but rather a systematic part of their job function. The express reason for the requirement that security officers be certified EMTS is to utilize their expertise as EMTS to respond situations that require emergency medical assistance in the EBI complex. Incidents where emergency medical assistance is rendered by EBI security officers cannot be said to be "cases of sudden emergency," but rather are anticipated under the structure utilized by EBI. Thus, section 20-9(b)(3) is not applicable to the circumstances presented.

Provision of emergency medical assistance by emergency medical personnel in the regular course of other employment and independently of any relationship to an emergency medical services provider or the emergency medical services system is a violation of Conn. Agencies Reg. § 19a-179-9(i) as well as Conn. Gen. Stat. § 20-9.

This conclusion is also supported by the recent amendment to section 20-9(b) contained in Conn. Pub. Act. 95-98, effective October 1, 1995:

(b) The provisions of this chapter shall not apply to: ... (3) any person who furnishes medical or surgical assistance in cases of sudden emergency, ... (14) ... a paramedic, as defined in subsection (o) of section 19a-175, acting within the scope of regulations pursuant to section 19a-179, if such service is rendered under the supervision, control and responsibility of a licensed physician, ...

It is a rule of statutory construction that courts cannot, by construction, read into legislation provisions not clearly stated, or add exceptions. State v. Kisti, 186 Conn. 757, 766 (1982). The express mention in a statute of one exemption precludes reading others into the statute. Connecticut Light & Power Co. v. Walsh, 134 Conn. 295, 301 (1948); People's Bank v. Bilmor Bldg. Corp., 28 Conn. App. 809, 818 (1992). The only exception regarding paramedics listed in section 20-9(b) as of October 1, 1995, regards paramedics acting within the scope of regulations pursuant to section 19a-179, if such service is rendered under the supervision, control and responsibility of a licensed physician. Under the facts presented, this exception does not apply to the EBI security guards rendering emergency medical services at the EBI complex.

In sum, the provision of emergency medical assistance by emergency medical personnel in the regular course of other employment and independently of any relationship to an emergency

medical services provider or the emergency services system is a violation of Conn. Gen. Stat. § 20-9 and Conn. Agencies Reg. § 19a-179-9(i).

This Declaratory Ruling is effective this 5TH day of September 1995.



Stephen A. Harriman, Commissioner
Department of Public Health