



KENTUCKY BOARD OF EMS

Advisory Opinion 2018-001 August 2, 2018

Re: Reconsideration of Advisory Opinion 2018-001

This letter is in response to your May 2, 2018, request for reconsideration of Advisory Opinion 2018-001. The matter was reviewed by the Kentucky Board of Emergency Medical Services (“KBEMS” or the “Board”) Executive Committee at the May 17, 2018 meeting and was also reviewed by the Kentucky Board of Emergency Medical Services Board of Directors (“Board”) on June 21, 2018. As a result, the following opinion is issued:

The Advisory Opinion was initially requested by Colonel Diane R. Vogel of the Louisville Metro EMS, on October 12, 2017. On April 12, 2018, the Board approved the Advisory Opinion. The only question for consideration regarding this Advisory Opinion is whether or not agencies can limit a geographic response area of one or more of their ambulances for jurisdictions in which they have a Certificate of Need.

The request filed by St. Matthews Fire cited three (3) specific grounds and a statement of adverse impact upon which it was seeking reconsideration. The first stated ground for reconsideration is not valid as KBEMS issued an Advisory Opinion pursuant to 202 KAR § 7:055, which was duly published pursuant to the applicable regulatory and statutory requirements. The second stated ground for reconsideration is also not valid. KBEMS, pursuant to its regulatory and statutory provisions, considered the specific question proposed and did not provide an opinion as to the potential dispute between the parties. KBEMS also considered the relevant documentation, data and other materials, including the applicable and at issue Kentucky Administrative Regulations.

KBEMS denies the reconsideration based upon the third stated ground for reconsideration. The published Advisory Opinion was solely within KBEMS’ discretion. Contrary to the issues raised in the request for reconsideration, KBEMS was not asked to resolve a dispute between St. Matthews Fire and Louisville Metro EMS - but was specifically asked concerning the ability of agencies to limit the geographic response area of one or more of their ambulances for jurisdictions in which they have a Certificate of Need. (emphasis added). The specific question raised and answered through the Advisory Opinion was properly resolved by KBEMS, as no formal complaint was filed by either

118 James Court, Suite 50 · Lexington, KY 40505

(859) 256-3565 · Fax: (859) 256-3128

Email: KBEMS@kctcs.edu · Website: kbems.kctcs.edu

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party regarding the alleged actions. Additionally, an Advisory Opinion is not a disciplinary action; nor was there any accusation that rose to the level of a complaint that could be filed by the Executive Director. The request was clear, not overly broad, and was wholly appropriate.

Lastly, St. Matthews Fire filed a statement of adverse impact. To date, no complaint has been filed against either Louisville Metro EMS or St. Matthews Fire concerning jurisdictional requests and the utilization of ground ambulances. Also, no data has been provided to the Board which shows that St. Matthews Fire is unable to meet its obligation to provide Fire and EMS services to its geographical service area. As stated in Advisory Opinion 2018-001, the statutory and regulatory requirements require that agencies adhere to the jurisdiction and response areas which are promulgated through the issuance of the Certificate of Need and license obtained through the Board.

Therefore, KBEMS upholds the original opinion addressing this request which finds that agencies must adhere to the geographic response area and availability of their units as set forth through the Certificate of Need and licensure with the Kentucky Board of Emergency Medical Services.

4815-7769-6613, v. 6

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