

Jonathan Rosenfeld's Nursing Homes Abuse Blog

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Dropping Patients, Failing To Secure Wheelchairs & Dangerous Driving Put Elderly Patients At Risk Of Further Harm During Ambulance Transport

Very few people consider the journey to or from a nursing home. Unfortunately, what may be an afterthought for many, has turned into a nightmare for others when they were injured during ambulance transport. Over the years, I have seen many errors made by ambulance drivers and attendants that has resulted in severe injuries to my clients.

In a pending matter, my law office was retained by the family of a man who was being transported from a nursing home to an out-patient dialysis center by a private ambulance company. During a short ride, the driver of the ambulance lost control of the vehicle and the ambulance flipped into a roadside ditch. Because, our elderly client was not secured in the ambulance, he was literally thrown out of the ambulance and sustained catastrophic injuries.

The medical condition often dictates whether a nursing home patient will be transported via a private ambulance company or a municipal ambulance. In either case, public and private ambulances owe a very high degree of care to the people they transport-- be it around the corner or across the state.

Nevertheless, most states have different laws that apply to private ambulance companies as opposed to municipally operated ambulances. Therefore, it is important to learn as quickly as feasible, the type of ambulance and personnel involved in an incident to determine which laws apply.

Public Ambulance Liability

Emergency medical services (EMS) are necessary for those emergency medical situations that occur out of hospitals. Ambulances can quickly and effectively transport a patient while providing medical services along the way. Many times, this medical care saves lives. But other times, negligent driving and medical mistakes can injure or even kill the patients that the ambulance was meant to save.



Jonathan Rosenfeld represents victims of nursing home abuse and neglect throughout the country. For more information please visit Nursing Homes Abuse Blog (www.nursinghomesabuseblog.com), Bed Sore FAQ (www.bedsorefaq.com) or call Jonathan directly at (888) 424-5757.

Emergency medical services (EMS) system refers to an organization of hospitals, vehicle service providers and personnel in a specific area, which coordinates and provides pre-hospital and inter-hospital emergency care and non-emergency medical transports. When responding to an emergency call, patient care and safety should be the first priority of all emergency medical services (EMS).

In order to provide the highest quality of patient care, EMS must have well-trained Emergency Medical Technicians (EMT) and the appropriate equipment and supplies for ambulances. Patient care reports are very important in determining whether EMS providers acted accordingly. Oftentimes, they are the only document available to show what the paramedics did on a call, how they did it, and why they did it.

Immunities Available to EMS Providers

EMS Providers are not liable for injuries unless their behavior is characterized as willful and wanton misconduct under Section 3.150(a) of the Illinois [Emergency Medical Services \(EMS\) Systems Act](#). This Act applies directly and specifically to EMS providers.

The [Local Governmental Employees Tort Immunity Act](#) (745 ILCS 10) protects local governments and their employees from litigation if they fail to or inadequately examine, diagnose, or treat any person, as long as that failure occurs within the scope of employment. The [Emergency Medical Services \(EMS\) Systems Act](#) (210 ILCS 50/3.150) also grants EMS providers (including private and public ambulances) civil immunity from lawsuits for any act or omission in providing emergency or non-emergency medical services. However, it contains an exception for willful and wanton misconduct.

In [Abruzzo v. City of Park Ridge](#), No. 104935 (Oct. 2, 2008), the Illinois Supreme Court was asked to resolve this conflict between the Tort Immunity Act and the EMS Systems Act. In this case, paramedics from the City of Park Ridge responded to a call for a non-responsive patient; this patient ended up being a 15-year-old boy who had suffered from an overdose. Upon arrival, the paramedics did nothing to assist the patient; they failed to evaluate, assess, examine, diagnose, treat, or document the boy's condition, and the boy died the next day.

The Illinois Supreme Court determined the boy's mother could pursue a wrongful-death suit against the city for the alleged willful and wanton misconduct of its paramedics because the limited immunity provision in Section 3.150(a) of the Emergency Medical Services Systems Act applied to this case, not the absolute immunity provisions of Sections 6-105 and 6-106 of the Tort Immunity Act.

Properly loading patient and driving safely

Under the Illinois [Tort Immunity Act](#) (Section 5-106), except for willful and wanton misconduct, EMS providers are not held liable for an injury caused by the negligent operation of a motor vehicle or firefighting or rescue equipment, when responding to an emergency call, and this includes the transportation of a person to a medical facility. In addition, the EMS Services Act (210 ILCS 50/3.150) also provides that no person, agency, or governmental body certified,

licensed or authorized pursuant to the Act, who in good faith provides emergency or non-emergency medical services will be held civilly liable as a result of their acts or omissions in providing such services, unless it constitutes willful and wanton misconduct.

Therefore, unless ambulance drivers or EMTs displays willful and wanton misconduct when responding to an emergency call, loading a patient into an ambulance, or transporting a patient to a medical facility, they will not be held liable for injury.

Responsibility for medical complications during transport.

EMS providers can be held liable for willful and wanton misconduct during the transport of a patient. The exemption from civil liability for emergency care is provided for in the Good Samaritan Act. (210 ILCS 50/3.150 (c)).

In [Fagocki v. Algonquin/Lake-In-The-Hills Fire Protection District](#), 469 F.3d 623 (7th Cir. 2007), the Seventh Circuit Court of Appeals ruled that failing to properly intubate a patient in a moving ambulance does not constitute willful and wanton misconduct. In this case, the court noted that misplacing the endotracheal tube while traveling in a moving ambulance would not be considered negligence. Furthermore, while the paramedics' failure to discover the misplaced tube may have been negligent, it would not amount to willful and wanton misconduct without circumstances of aggravation. Therefore, the added difficulty of performing medical procedures and emergency care while in a moving ambulance is factored into the court's reasoning when determining whether medical mistakes and complications are willful and wanton misconduct that could subject the EMS providers to civil liability.

Ambulances and Emergency Medical Services are essential to providing proper medical care. However, when EMS providers act negligently in their handling and transport of patients, they can be held liable if their acts or omissions constitute willful and wanton misconduct. If you or a loved one suffered injuries or even death during an emergency or non-emergency transport by EMS providers, you may be able to bring a civil suit against those responsible.

Resources:

Illinois Association of Fire Protection Districts: EMS Liability, [Recent Changes in Illinois Law](#)

American College of Emergency Physicians: [EMS](#)

Nursing Homes Abuse Blog Entries:

[Ambulance Accident Claims The Life Of A Nursing Home Patient After Dialysis Treatment](#)

[Ambulance Stolen From Chicago Nursing Home Results In Multiple Injuries](#)

[Transportation In & Out Of Nursing Homes: Ambulance Responsibility.](#)