

DATE: 03-11-91

CITATION: VAOPGCPREC 19-91
Vet. Aff. Op. Gen. Couns. Prec. 19-91

TEXT:

SUBJECT: Removal of Automobiles from VA Grounds.

(This opinion, previously issued as Opinion of the General Counsel 8-71, dated May 13, 1971, is reissued as a Precedent Opinion pursuant to 38 C.F.R. §§ 2.6(e)(9) and 14.507. The text of the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.)

To: Chief Attorney, VARO, St. Louis, Mo.:

QUESTIONS PRESENTED:

(1) Whether VA has authority to have improperly parked automobiles on hospital reservations removed; and

(2) If so, whether VA has authority to have such vehicles impounded and retained until the towing fee is paid either to VA or to the fee contractor engaged for that purpose, assuming such an agreement is proper.

COMMENTS:

There is no question but that the Hospital Director has authority to take whatever reasonable and prudent action is necessary for the proper management of the hospital reservation. Moreover, where motor vehicle regulations adopted at the station are posted so as to constitute notice to those entering the reservation, violation of such regulations would render such persons trespassers by reason of exceeding the limits of their license to enter the hospital grounds. Thus, reasonable steps could be taken to remove the trespass which may include the actual moving or towing away of the vehicles. Accordingly, we see no legal objection to the hospital entering into an agreement whereby illegally parked vehicles would be towed away by a commercial towing concern.

Any proposed agreement between the hospital and a commercial towing concern should contain a clause to insure that adequate insurance is present to protect the VA from claims for damages to vehicles being towed away.

Moreover, it is suggested that a clause be added to insure that fair charges should be placed on the services rendered by the towing company.

HELD:

VA has authority to have improperly parked automobiles removed from the reservation, where the motor vehicle regulations adopted at the station are posted so as to constitute notice to those entering. Such removal and retention may be performed by a commercial concern and may properly entail a fee.

VETERANS ADMINISTRATION GENERAL COUNSEL
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