

OPINION NO. 86-044

Syllabus:

A county has no authority to provide emergency medical services, either directly or pursuant to contract, outside the State of Ohio.

To: Anthony L. Gretlick, Williams County Prosecuting Attorney, Bryan, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, June 25, 1986

I have before me your request for my opinion regarding the authority of county emergency medical services personnel to render services outside the State of Ohio in the absence of a contractual arrangement between the county and another state. In addition, you have inquired whether a county may procure liability insurance for county emergency medical services personnel rendering such services outside the state. Williams County borders both Michigan and Indiana, and I understand that the county emergency medical services units occasionally receive and respond to calls originating in Michigan or Indiana. You stated that, although the county has not contracted to provide services in those states, emergency services personnel render any required emergency medical services, including transportation of patients to the nearest hospital, whether within or outside the state.

In response to your first question regarding the authority of a county to provide emergency medical services outside the State of Ohio, I note that, as a creature of statute, a board of county commissioners has only those powers which are expressly granted by statute or which may be necessarily implied therefrom. State ex rel. Shriver v. Board of Commissioners, 148 Ohio St. 277, 74 N.E.2d 248 (1947). R.C. 307.05 empowers a board of county commissioners to provide ambulance or emergency medical services as follows:

A board of county commissioners may provide ambulance service or emergency medical service, or may enter into a contract with one or more counties, townships, municipal corporations, nonprofit corporations, or private ambulance owners, regardless of whether such counties, townships, municipal corporations, nonprofit corporations, or private ambulance owners are located within or without the state, in order to obtain ambulance service, to obtain additional ambulance service in times of emergency, or to obtain emergency medical services....

When such service is provided by the board, the service may be administered by the board, by the county sheriff, or by another county officer or employee designated by the board. All rules, including the determining of reasonable rates, necessary for the establishment, operation, and maintenance of such service shall be adopted by the board.... (Emphasis added.)

See generally 1979 Op. Att'y Gen. No. 79-042 (a county is not required to provide emergency medical service, since (what is now) R.C. 307.05 is permissive, not mandatory). See also R.C. 9.60. Thus, R.C. 307.05 authorizes a board of county commissioners either to provide ambulance or emergency medical services directly or to contract with another specified entity in order to obtain such services. See 1985 Op. Att'y Gen. No. 85-059.

That portion of R.C. 307.05 which authorizes the board of county commissioners to directly provide emergency medical service must be read as authorizing the provision of services only within the county. See generally State ex rel. McClure v. Hagerman, 155 Ohio St. 320, 98 N.E.2d 2d 835 (1951)(the expenditure of a political subdivision's funds must serve a

public purpose of the political subdivision). Unless otherwise provided, the authority of the board of county commissioners necessarily exists only within the boundaries of the county. The portion of R.C. 307.05 which authorizes a county to contract with various in-state or out-of-state entities limits a county's contracting authority to only those instances where the county wishes to obtain services. Since there is no language which authorizes the county to provide services outside the state, either directly or pursuant to contract, I must conclude that a county may not provide emergency medical services outside the State of Ohio. Cf. Op. No. 85-059 ("[a] board of county commissioners which is providing ambulance and emergency medical services pursuant to R.C. 307.05 may not exclude a portion of the county from the provision of such services") (syllabus).

My conclusion is supported by an examination of R.C. 505.44, which provides:

In order to obtain ambulance service, to obtain additional ambulance service in times of emergency, or to obtain emergency medical service, any township may enter into a contract with one or more townships, municipal corporations, counties, nonprofit corporations, or private ambulance owners, regardless of whether such townships, municipal corporations, nonprofit corporations, or private ambulance owners are located within or without the state, upon such terms as are agreed to by them, to furnish or receive ambulance services or emergency medical services or the interchange of ambulance services or emergency medical services within the several territories of the contracting subdivisions, if such contract is first authorized by respective boards of township trustees or other legislative bodies.

R.C. 505.44 thus authorizes a township to contract "to furnish or receive" as well as "to obtain" emergency medical services. See also R.C. 9.60 ("[a]ny firefighting agency of this state...may provide fire protection...to a governmental entity of an adjoining state upon the approval of the governing board of the firefighting agency or private fire company and upon authorization of an officer or employee...providing the fire protection..."); R.C. 505.431 (township police department "may provide police protection...to a governmental entity of an adjoining state...upon the approval by resolution, of the board of township trustees...and upon authorization by an officer or employee"). By contrast, R.C. 307.05 contains no language granting a county authority to provide services outside the state.

In the absence of statutory authority for a county to render emergency medical services outside the state, county emergency medical services personnel may not proceed to an emergency situs outside Ohio and render services. It is the duty of the emergency medical services unit to ascertain the origin of a call and respond accordingly.¹ Therefore, I

¹ I note that Am. Sub. H.B. 491, 116th Gen. A. (1985) (eff. June 18, 1985) provides a procedure under which a uniform emergency telephone number system may be established whereby persons may call for emergency aid and have their calls transferred to the appropriate agency to respond at their location. See R.C. 4931.43(B)(2) and (5), R.C. 4931.40(G) (as enacted by Am. Sub. H.B. 491).

conclude that a county emergency medical services unit has no authority to render services outside the State of Ohio absent statutory authorization therefor.

In light of my response to your first question, it is unnecessary to address your second question concerning the purchase of liability insurance for emergency medical services personnel who provide services outside the State of Ohio.

It is, therefore, my opinion, and you are hereby advised, that a county has no authority to provide emergency medical services, either directly or pursuant to contract, outside the State of Ohio.