

OPINION NO. 90-078**Syllabus:**

An individual employed by a township as a paramedic, pursuant to R.C. 505.37, may operate, in his private capacity, a paramedic service, provided that such conduct does not constitute a violation of a local ordinance or regulation, charter provision, or a statutory provision subject to interpretation by the Ohio Ethics Commission pursuant to R.C. 102.08. The individual, however, pursuant to R.C. 511.13, may not enter a contract to provide ambulance service or emergency medical service to the township employing him as a paramedic.

To: David E. Bowers, Allen County Prosecuting Attorney, Lima, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, November 9, 1990

I have before me your request for my opinion as to whether a township paramedic may operate, off-duty, a competing paramedic service within the same geographic area. Information provided indicates that an individual employed by a township as a paramedic, is also providing, in his private capacity, paramedic services to persons located within the territory serviced by that township's paramedic service.

I note at the onset that the position of "township paramedic" is not explicitly provided for in the Revised Code. Pursuant to R.C. 505.37, however, a township is authorized to operate and maintain an ambulance service. *See* 1969 Op. Att'y Gen. No. 69-038; 1962 Op. Att'y Gen. No. 3332, p. 793; 1953 Op. Att'y Gen. No. 2416, p. 114. In pursuance of this grant of authority, the township may employ those individuals necessary to maintain and operate an ambulance service. *See* R.C. 505.37(A). The individuals in the service of a township to staff an ambulance service, however, must be certified, pursuant to one of the provisions set out in R.C. 3303.15-.17, as either emergency medical technician-ambulances (EMT-A's), advanced emergency medical technician-ambulances (ADV EMT-A's), or emergency medical technician-paramedics (paramedics).¹ R.C. 3303.13(B). *See generally* R.C. 3303.08(A)-(C) (defining, respectively, EMT-A's, ADV EMT-A's, and paramedics). For purposes of R.C. 3303.13, a paramedic is

a person specially trained beyond the emergency medical technician-ambulance and advanced emergency medical technician-ambulance levels, who is certified under division (B) of section 3303.15 or 3303.16 of the Revised Code, who, in addition to performing those functions described in division (A) of this section, renders rescue and emergency medical services and, in conjunction with a cooperating licensed medical doctor, doctor of osteopathic medicine and surgery, or a physician advisory board, may perform [certain enumerated] life support or intensive care techniques....

¹ I note that pursuant to R.C. 3303.13, an ambulance driver under certain conditions is not required to be certified as either an emergency medical technician-ambulance (EMT-A), advanced emergency medical technician-ambulance (ADV EMT-A), or emergency medical technician-paramedic (paramedic).

R.C. 3303.08(C). Consequently, I assume, for purposes of this opinion, that the individual in question is employed by the township, pursuant to R.C. 505.37, and is certified in accordance with either R.C. 3303.15(B) or R.C. 3303.16 as a paramedic.

I turn now to your specific question. In order to determine whether a township paramedic may operate, in his private capacity, a paramedic service in a geographic territory coextensive with that of the township which he serves, I must determine whether an applicable federal or state statute or regulation, local ordinance or regulation, charter provision, or conflict of interest prohibits a township paramedic from operating his own paramedic service. See 1990 Op. Att'y Gen. No. 90-037 at 2-150 and 2-151; 1989 Op. Att'y Gen. No. 89-105 at 2-512; 1989 Op. Att'y Gen. No. 89-037 at 2-163; see also 1983 Op. Att'y Gen. No. 83-035 at 2-135.

I am aware of no state or federal statutes or regulations expressly prohibiting a township paramedic from operating a paramedic service within the territory serviced by the township employing him as a paramedic.² Additionally, the question of whether there is an applicable local ordinance or regulation or charter provision is of local concern and must be determined on a case by case basis. Op. No. 89-037 at 2-164. You have not indicated the existence of any such provision and I, therefore, assume, for purposes of this opinion, that there are no such local ordinances or regulations, or charter provisions.

With respect to the existence of a conflict of interest, I note that R.C. 511.13 concerns conflicts of interest in township contracts. Said section provides, in relevant part, that "[n]o member of the board of township trustees or any officer or employee thereof shall be interested in any contract entered into by such board." Township officers and employees, thus, are prohibited, pursuant to R.C. 511.13, from having an interest in a township contract. See 1982 Op. Att'y Gen. No. 82-008 (syllabus) ("[t]he provision of R.C. 511.13 which prohibits members of the board of township trustees and officers or employees of a township from having an interest in contracts entered into by the board of township trustees applies to any contract entered into by such board, unless the interested person meets the criteria for a permissible interest set forth in this section"). Since the individual in question is employed by the township as a paramedic, see R.C. 505.37, the individual is prohibited by R.C. 511.13 from having any interests in township contracts.³

I note that R.C. 505.44 authorizes a township to acquire ambulance service or emergency medical service⁴ from private ambulance owners. See 1984 Op. Att'y Gen. No. 84-048. If the township were to contract under R.C. 505.44 with the individual in question for the provision of ambulance service or emergency medical service, the individual would clearly have an interest in a contract entered into by the board of township trustees, to wit, the money to be paid for the rendering of such ambulance service or emergency medical service. As a result, the individual in question would be in violation of the clear mandate of R.C. 511.13. See generally

² You have not indicated that any federal funds are distributed to the township fire department. Therefore, I express no opinion as to whether such funding would make any federal statutes or regulations applicable.

³ I note that R.C. 511.13 does not apply when an individual "is a shareholder of a corporation, but not an officer or director thereof, and owns not more than five per cent of the stock of such corporation, the value of which does not exceed five hundred dollars." You have not provided any facts indicating that the individual in question comes within the purview of this exception; therefore, I assume that the exception does not apply.

⁴ R.C. 3303.08(G) defines "emergency medical service," for purposes of R.C. 505.44, as "a public or private organization using EMT-A's, ADV EMT-A's, or paramedics, or a combination of EMT-A's, ADV EMT-A's, and paramedics, to provide emergency medical care to victims of serious illness or injury prior to the victims receiving professional medical care or hospitalization."

Op. No. 82-008 at 2-30 ("R.C. 511.13 is a remedial statute....Like other statutes which forbid public officers to have an interest in public contracts, R.C. 511.13 is intended to introduce a regulation which will safeguard the public interest" (citations omitted)). Consequently, I find that the individual in question is prohibited, pursuant to R.C. 511.13, from entering into a contract with the township for the purpose of providing ambulance service or emergency medical service to the township.

As a final matter, I note that in addition to the specific provisions of R.C. 511.13, R.C. Chapter 102 and R.C. 2921.42 prohibit public officers and employees, in general, from using their positions to secure anything of value that is of such a character as to manifest a substantial and improper influence upon them with respect to their duties, from having an unlawful interest in a public contract, and from authorizing or employing the authority or influence of their office to secure authorization of any public contract in which they, family members, or business associates have an interest. The Ohio Ethics Commission, pursuant to R.C. 102.08, is vested with the authority to render advisory opinions on these provisions of the Revised Code. "In light of this express statutory grant of power, I have held that it is inappropriate for the Attorney General to render opinions on these statutes." Op. No. 89-037 at 2-167. Consequently, I will abstain from rendering an opinion as to the application of these statutes to the situation with which you have presented me. *See id.*; 1989 Op. Att'y Gen. No. 89-022 at 2-101 n.2. *See generally* 1987 Op. Att'y Gen. No. 87-033 (syllabus, paragraph three) ("[t]he Attorney General will abstain from rendering an opinion where another governmental entity has been granted the authority to render advisory opinions concerning the relevant subject matter").

Based upon the foregoing, it is my opinion and you are hereby advised that an individual employed by a township as a paramedic, pursuant to R.C. 505.37, may operate, in his private capacity, a paramedic service, provided that such conduct does not constitute a violation of a local ordinance or regulation, charter provision, or a statutory provision subject to interpretation by the Ohio Ethics Commission pursuant to R.C. 102.08. The individual, however, pursuant to R.C. 511.13, may not enter a contract to provide ambulance service or emergency medical service to the township employing him as a paramedic.