

OPINION NO. 74-028

Syllabus:

The Director of Health should certify the payment authorized in R.C. 3705.13 in the name of a deputy registrar who performs the duties listed in that section.

To: John W. Cashman, M.D., Director, Ohio Dept. of Health, Columbus, Ohio
By: William J. Brown, Attorney General, April 5, 1974

Your request for an opinion reads in part as follows:

"A situation has arisen in one of our registration districts wherein the individual who was duly appointed as the local registrar of the district had his normal working position with the local health department abolished. In abolishing his normal working position the local Board of Health did not remove him as local registrar. Since this time, the local registrar has not been in the office and the deputy registrar has signed all vital statistic records in her own name as deputy.

"The question now arises as to whether the certification for payment of fees pursuant to section 3705.13 of the Revised Code should be made to the deputy registrar rather than the local registrar since the local registrar has not performed any functions under Chapter 3705. of the Revised Code for approximately the past ten months."

"We respectfully request you to inform us as to whether the Director of Health should certify such payment to the local registrar or to the deputy registrar."

R.C. 3705.08 provides in part as follows:

"With the approval of the director of health, each local registrar shall appoint a deputy registrar or deputy registrars who, in case of the absence, illness, or disability of the local registrar, shall act in his stead. Acceptance of appointment as deputy registrar shall be in writing and shall be filed with the director. * * *

R.C. 3705.13 provides in part as follows:

"Each local registrar of vital statistics shall be entitled to a fee for each birth, stillbirth, or death certificate properly and completely made out and registered with him and correctly copied and forwarded by him to the health commissioner and the department of health in accordance with the population of the primary registration district at the last federal census. * * *

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"The director of health shall annually certify to the county treasurers of the several counties the number of births, stillbirths, and deaths registered from their respective counties with the names of the local registrars and the amounts due each at the rates fixed in this section. Such amounts shall be paid by the treasurer of the county in which the registration districts are located. No fees shall be charged or collected by registrars except as provided by sections 3705.01 to 3705.30, inclusive, of the Revised Code."

I assume that the absence of the local registrar has not resulted in a vacancy in that position. See Opinion No. 889, p. 1910, Opinions of the Attorney General for 1915.

R.C. 3705.08 expressly provides that a deputy registrar is to perform the duties of the local registrar. However, the precise question is whether a local registrar is entitled to the fees provided in R.C. 3705.13 for the performance of the local registrar's duties.

The purpose of the allowance of the fees in R.C. 3705.13 by the General Assembly was stated by one of my predecessors

in Opinion No. 4028, p. 344, Opinions of the Attorney General for 1954, as follows at 349-50:

"* * *The legislature expressed a definite interest in maintaining the fees of Section 3705.13, Revised Code, for the local registrar regardless of additional compensation which he might receive for other work. These fees are paid to the registrar based upon the number of vital statistics which he has forwarded to the central division in the department of health, and I think it logical to assume that the legislature was providing an incentive to the registrar for complete registration with the central division, which incentive it did not want removed. * * *"

Payment of the fees in R.C. 3705.13 to a deputy registrar for performing the same duties of the local registrar would be in furtherance of the purpose of R.C. 3705.13 in providing an incentive to the employee who is responsible for the registration process set out in R.C. 3705.13 to fully complete his duties.

In specific answer to your question it is my opinion, and you are so advised, that the Director of Health should certify the payment authorized in R.C. 3705.13 in the name of a deputy registrar who performs the duties listed in that section.