

OPINION NO. 80-023**Syllabus:**

1. Although R.C. 4723.06 and R.C. 4723.33 prohibit nurses from diagnosing and administering medical treatment, nurses may, nevertheless, perform such acts pursuant to appropriate standing orders issued by a physician. By the use of standing orders, physicians may authorize registered nurses to perform any emergency medical tasks that emergency medical technicians are authorized to perform pursuant to R.C. 4731.82 through R.C. 4731.99, provided that the nurses possess the necessary skills to perform those tasks. Hence, a nurse need not be certified as an emergency medical technician to perform tasks that emergency medical technicians are authorized to perform. (1979 Op. Att'y Gen. No. 79-042 clarified.)

2. Whether a person represents himself as an emergency medical technician is a question of fact to be determined in light of all the circumstances of each case. In order to avoid representing themselves as emergency medical technicians in violation of R.C. 4731.92, volunteers at a plant who are not certified emergency medical technicians, but who respond to calls for emergency medical care and provide such care to victims at the scene of accidents or sudden illnesses, must take affirmative steps to ensure that plant employees are informed that the volunteers are not certified emergency medical technicians and that the volunteers do not constitute an emergency medical service as defined in R.C. 4731.82(E). (1979 Op. Att'y Gen. No. 79-050; 1979 Op. Att'y Gen. No. 79-042; 1976 Op. Att'y Gen. No. 76-060 clarified.)
3. A person does not represent himself as an emergency medical technician in violation of R.C. 4731.92 where by happenstance he is at or near the scene of an emergency and voluntarily administers such aid as he is able. Moreover, such person is protected from liability for the aid he administers, except for wanton or willful acts, by the Good Samaritan statute, R.C. 2305.23.
4. Emergency treatment of minor injuries or illnesses, such as cleaning and bandaging of a cut or scrape, does not fall under the purview of R.C. 4731.82 to R.C. 4731.99, as those sections apply only to emergency medical care administered to victims of serious illnesses or injuries.

To: James C. Clem, Adjutant General, Worthington, Ohio
By: William J. Brown, Attorney General, May 7, 1980

I have before me your request asking that I clarify 1979 Op. Att'y Gen. No. 79-042 as it relates to the following questions:

1. In plants throughout Ohio where an industrial nurse is specifically employed to provide pre-hospital emergency care and operate a medical dispensary, need she be certified as an EMT-A?
2. In plants where employees volunteer to function as "first responders" to the scene of an accident or illness within the confines of the facility, are these employees required to be certified as EMT-As? An on site plant ambulance would not be utilized in this situation.

In addition, you subsequently amended your request by asking the following additional question:

Are Red Cross volunteers who provide first aid services at public gatherings required by R.C. 4731.82 through 4731.99 to be certified EMTs?

In Op. No. 79-042, I stated in the first paragraph of the syllabus:

Where a private corporation provides emergency medical services on its property for the benefit of its employees or the visiting public, persons performing those services must be certified emergency medical technicians, or must be otherwise licensed to perform such acts beginning August 31, 1979.

In the body of that opinion, in response to the question of whether it was

mandatory for doctors or nurses to take the required training in order to become certified emergency medical technicians, I concluded that they would be required to take such training because that was the only mechanism for certification provided by the statute. However, I went on to point out on pages 2-138 and 2-139:

It must be noted, however, that the fact that a physician or nurse is not certified as an emergency medical technician pursuant to either R.C. 4731.86 or R.C. 4731.87 does not mean that such individual is prohibited from, or limited in, performing any act which his professional license otherwise permits him to perform. A licensed physician or nurse may perform any act which is authorized under the appropriate licensing statutes or regulations even though such act would constitute an emergency medical service for the purpose of R.C. 4731.82 et seq.

Hence, in order to answer your first question, it will be necessary to review what acts a nurse may perform under his or her license and whether those include acts performed by emergency medical technicians (EMTs).

R.C. Chapter 4723 governs the practice of nursing. R.C. 4723.01 establishes the Board of Nursing Education and Nurse Registration (Nursing Board) which has authority to promulgate rules to carry out the provisions of R.C. 4723.01 to 4723.38. See R.C. 4723.04, 4723.05. The practice of professional nursing is defined in R.C. 4723.06, which provides:

"Practice of professional nursing" means the performance for compensation of acts requiring substantial judgment and specialized skills based on knowledge and application of scientific principles learned in an approved school of professional nursing. Acts of medical diagnosis or prescription of medical, therapeutic, or corrective medical measures by a nurse are prohibited.

You have advised me that for purposes of your question I may assume that all industrial nurses are registered nurses. Hence, there is no need to consider your question in relation to practical nursing as defined in R.C. 4723.15.

R.C. 4723.06 does not specifically identify the kinds of acts a nurse is authorized to perform pursuant to a nurse's license as a registered nurse. The statute begins by stating that a nurse may perform acts "requiring substantial judgment and specialized skills. . . learned in an approved school of professional nursing." That would appear to authorize nurses to perform any of a wide variety of acts depending on what was learned in school. Hence, what a nurse is authorized to do will depend upon the curriculum of an approved school of professional nursing and will change as the curriculum changes in response to new developments in the health care field. That broad grant of authority is, however, limited by the last sentence of R.C. 4723.06, which expressly prohibits nurses from diagnosing or prescribing any corrective medical measure. This prohibition is emphasized in R.C. 4723.33, which states that R.C. 4723.01 to 4723.40 "are not in conflict with the laws relating to the practice of medicine or surgery or [sic] do not entitle a person holding a certificate or license under such sections [R.C. 4723.01 to 4723.40] to practice medicine or surgery or any of its branches."

¹The Ohio Board of Nursing Education and Nurse Registration has adopted minimum curriculum requirements for approved schools. 6 Ohio Admin. Code 4723-5-24. However, these minimum requirements are described in general terms and they are not, therefore, particularly helpful in determining what kinds of things nurses are authorized to do. For example, 6 Ohio Admin. Code 4723-5-24(A)(1)(c) provides:

(A) For Schools of Professional Nursing.

- (1) The following minimum hours of instruction in the three broad areas shall be met:

. . . .

Hence, there is a clear legislative intent that the apparently broad description of what nurses are authorized to do, which appears in the first sentence of R.C. 4723.06, is limited by the last sentence of that section, and that whatever a nurse is authorized to do by R.C. 4723.06 cannot include acts that constitute the practice of medicine. Therefore, it is necessary to review what acts constitute the practice of medicine.

Pursuant to R.C. 4731.34, a person is practicing medicine if the person:

examines or diagnoses for compensation of any kind, or prescribes, advises, recommends, administers, or dispenses for compensation of any kind, direct or indirect, a drug or medicine, appliance, mold or cast, application, operation, or treatment of whatever nature, for the cure or relief of a wound, fracture or bodily injury, infirmity, or disease. (Emphasis added.)

This broad description of what constitutes the practice of medicine would appear to severely limit what a nurse is allowed to do. The Ohio Supreme Court in Richardson v. Doe, 176 Ohio St. 370, 373, 199 N.E. 2d 878, 880 (1964), intimated that a nurse's role in health care in Ohio is limited:

A nurse, although obviously skilled and well trained, is not in the same category as a physician who is required to exercise his independent judgment on matters which may mean the difference between life and death. A nurse is not authorized to practice medicine. Section 4723.33, Revised Code. . . . A nurse by the very nature of her occupation is prohibited from exercising an independent judgment in [the areas of diagnosis and prescription]. . . . (Emphasis added.)

This opinion confirms the view that in Ohio nurses are limited as to what acts they may perform. I suspect that if the Ohio Supreme Court were specifically asked to address the role of nurses in health care today, the court would

- (c) Area of Nursing and Professional Responsibility 800 hours.
Subject matter shall include content drawn from nursing science and practice, including its historical foundation, professional relationships and legal aspects. It shall include pharmacology and other therapies and human pathologies representing a range of physical and emotional nursing problems, and including health promotion and disease prevention.

and 6 Ohio Admin. Code 4723-5-24(A)(2)(a) provides:

- (2) Laboratory experience shall be planned to meet course objectives and shall be in the following areas:
- (a) Medical-Surgical Nursing.
Opportunity shall be given to the student to develop understanding of physical, mental, emotional and spiritual factors affecting health and a representative group of diseases and disabilities, preventive, curative, and restorative aspects of nursing, and skills essential to nursing care of adults within various age groupings.

Hence, review of minimum curriculum requirements sheds little light on what acts a nurse is authorized to perform.

acknowledge nurses' substantial role in health care.² Nevertheless, as the law stands today, a nurse is precluded from doing any act that would constitute the practice of medicine. It is necessary, then, to review whether acts performed by EMTs include diagnosis or administration of any medicine or treatment for the cure or relief of a wound, fracture, or disease.

R.C. 4731.82(A), the section that defines EMT-A, describes what an EMT does. It states that an EMT "in an emergency determines the nature and extent of illness or injury and establishes priority for required emergency care [and] renders [such care]." The section goes on to give some examples of the emergency care an EMT-A administers: "opening and maintaining an air way, giving positive pressure ventilation, cardiac resuscitation, controlling of hemorrhage, treatment of shock, immobilization of fractures." Hence, the EMT determines the nature and extent of the illness and injury and then administers appropriate medical care. Stated another way, EMTs diagnose and treat. Thus, it would appear that nurses would be prohibited from performing EMT medical functions.

You have advised me, however, that in Ohio in the industrial setting it is common practice for doctors to issue standing orders to nurses so that they may perform certain acts that they would otherwise be prohibited from doing by R.C. 4723.06 and R.C. 4723.33. This practice of issuing standing orders was also confirmed to me by the Nursing Board, and I was advised that standing orders are used in all areas of health care. Under this practice, doctors reduce to writing the procedure that nurses are to follow and treatment that nurses are to administer upon observing certain symptoms. For example, a common standing order governs the procedures a nurse is to follow when a victim or patient has stopped breathing. Another common standing order relates to what a nurse is to do when a victim or patient is hemorrhaging. Nurses have the training to properly identify such symptoms and also have the training to properly carry out a doctor's order with respect to such readily identifiable symptoms.

Because of the importance of the practice of using standing orders and its widespread use in the delivery of health care in Ohio, I would expect to find some mention of this practice in either the statutes relating to nurses or physicians or the rules of the Nursing Board or the Medical Board. However, there is no mention of this practice anywhere in the statutes or the rules of either board. Absent some legislative or administrative guidance in this area, it is difficult for me to advise others on the use of this mechanism to allow nurses to do things that they would otherwise be prohibited from doing. However, I can confirm the lawfulness of such a practice. In addition, I recognize that such a practice, if properly used, can help to foster proper medical care at reduced costs.

The Ohio Supreme Court in Richardson made clear that under R.C. 4723.06 a nurse may not exercise independent judgment in the areas of diagnosis and prescription and any treatment or medication must be prescribed by a physician. However, when a nurse treats a symptom pursuant to a standing order, a nurse is not diagnosing or prescribing. Rather, in such a situation a nurse, although exercising judgment, is simply applying a treatment or giving a medication pursuant to an order of a physician. It is the doctor who is practicing medicine and not the nurse. Hence, so long as a nurse has the proper specialized skills and appropriate

²Other states have by statute acknowledged that nurses play a major role in the delivery of health care. For example, Cal. Bus. & Prof. Code §2725 (West 1974 & Supp. 1979), N.Y. Educ. Law §§6901 and 6902 (McKinney 1976 & Supp. 1979-80), and Pa. Cons. Stat. Ann. §212 (Purdon 1968 & Supp. 1979-80), all provide that the practice of nursing includes diagnosis and treatment. California's statute, §2725, provides in pertinent part that "[i]t is the legislative intent also to recognize the existence of overlapping functions between physicians and registered nurses. . . ." See also H. Creighton, Law Every Nurse Should Know 14-16 (3d ed. 1975); I. Murchison, T. Nichols & R. Hanson, Legal Accountability in the Nursing Process 14-29 (1978); D. Rothman & N. Rothman, The Professional Nurse and the Law 65-81 (1977).

standing orders have been issued, a nurse may perform any act that is consistent with the standing orders. Such acts could, of course, include those that would constitute emergency medical care under R.C. 4731.82 to 4731.99.

The correctness of this conclusion is made clear by the Emergency Medical Technician Act itself. Pursuant to R.C. 4731.82(C), paramedics, the emergency medical technicians with the highest level of skills, are, under certain circumstances, authorized to perform the following advanced medical procedures: "(1) Cardiac monitoring; (2) Defibrillation; (3) Airway or gastric intubation; (4) Relief of pneumothorax; (5) Administration of appropriate drugs and intravenous fluids."

R.C. 4731.89 then provides in pertinent part:

(A) The services listed in division (C) of section 4731.82 of the Revised Code may be performed by a paramedic pursuant to the written or verbal authorization of a licensed medical doctor or doctor of osteopathic medicine and surgery or of the cooperating physician advisory board, or pursuant to an authorization transmitted through a direct communication device by a licensed medical doctor, doctor of osteopathic medicine and surgery, or registered nurse designated by a physician. (Emphasis added.)

A similar procedure is established for authorizing advanced emergency medical technicians-ambulance (ADV EMT-As), the intermediately skilled EMTs, to establish an intervenous life line. R.C. 4731.891.

These statutes make clear that nurses may perform any medical treatment that an EMT is authorized to perform. First, the statutes implicitly recognize that doctors may delegate to persons with proper training and skills, such as paramedics, the authority to perform certain acts that constitute the practice of medicine.³ Second, the statutes authorize a nurse, when so designated by a physician, to authorize a paramedic, or ADV EMT-A, via a direct communication device, to perform the advanced medical procedures described above. This expressly confirms the authority of doctors to delegate to properly skilled nurses authority to exercise judgment normally limited to physicians. More importantly for your question, however, it indicates that nurses, or at least those with the proper training and skills, are clearly authorized to perform certain medical tasks that emergency medical technicians perform. If such nurses may authorize and supervise paramedics and ADV EMT-As in administering these medical procedures, then, a fortiori, they may certainly perform those procedures themselves, provided that they are so authorized by a physician.⁴ Hence, nurses with the appropriate skills may be authorized by a physician to provide emergency medical care, even though they are not EMTs.

Because I can perceive a need for technical input and guidance in the use of standing orders, I would recommend that the Nursing Board and Medical Board meet and consider the advisability of establishing rules or guidelines for the use of standing orders generally and their use in emergency situations specifically.⁵

³See also R.C. 4731.35 which allows registered nurses with certain training to administer anesthetics under the direction of a physician.

⁴Pursuant to R.C. 4731.84 registered nurses are authorized to teach paramedics how to perform the advanced medical procedures listed in R.C. 4731.82(C).

⁵See L. Regan, Doctor and Patient and the Law 483-486 (3d ed. 1956) (discussion of problems with the use of overly broad standing orders). See also H. Creighton, Law Every Nurse Should Know 99-100 (3d ed. 1975); E. Hayt, L. Hayt, A. Groeschel & D. McMullan, Law of Hospital and Nurse 189-191 (1958).

Your second question asks whether employees who volunteer to function as "first responders" to the scene of accidents or illnesses within the confines of their facility are required to be certified as emergency medical technicians. You have stated that no on-site plant ambulance is used in these situations. You did not, however, describe the actions taken by the volunteers at the scene of the emergency. The lack of this information makes it difficult to give you a definitive response to your question. I can, however, discuss certain factors that bear on whether a person is representing himself as an EMT.

R.C. 4731.92 sets forth the prohibitions of R.C. 4731.82 through R.C. 4731.99 that are applicable to individuals and agencies:

(A) On and after August 31, 1979, no person shall represent himself as an emergency medical technician-ambulance or EMT-A until certified under division (A) of section 4731.86 or 4731.87 of the Revised Code.

(B) On and after August 31, 1979, no person shall represent himself as an emergency medical technician-paramedic or paramedic until certified under division (B) of section 4731.86 or 4731.87 of the Revised Code.

(C) On and after the effective date of this section, no person shall represent himself as an advanced emergency medical technician-ambulance or ADV EMT-A until certified under division (C) of section 4731.86 or division (A) of section 4731.871 of the Revised Code.

(D) On and after August 31, 1979, no public or private agency shall advertise or disseminate information leading the public to believe that the agency is an emergency medical service, unless that agency actually provides emergency medical care as described under division (E) of section 4731.82 of the Revised Code.

Thus, no person may represent himself as an emergency medical technician unless so certified.

I discussed what it means for an individual to represent himself as an EMT in 1976 Op. Atty Gen. No. 76-060.⁶ I stated that when a person arrives at the scene of an emergency in contemplation of rendering emergency medical treatment, he may be representing himself as an emergency medical technician even though such person does not visually or audibly identify himself as an EMT. However, I emphasized that such a determination is a factual one and would, therefore, be controlled by the facts of each case.

The prohibition applicable to agencies is set forth in R.C. 4731.92(D), which prohibits any agency from advertising or disseminating information leading the public to believe that the agency is an emergency medical service, unless that agency actually provides emergency medical care as described in division (E) of R.C. 4731.82. R.C. 4731.82(E) defines "emergency medical service" as "a public or private organization using EMT-As, ADV EMT-As, or paramedics, or a combination of EMT-As, ADV EMT-As, and paramedics, to provide emergency medical care to victims of serious illness or injury prior to the victims receiving professional

⁶In response to Op. No. 76-060, the General Assembly in a rare second special session adopted Am. H.B. 1, Ill Gen. A. (1976) (eff. Sept. 2, 1976). See Op. No. 79-042 at 2-136. That bill extended until August 31, 1978, the time which persons performing the functions of EMTs on August 30, 1976, had to become certified if they were to continue to perform those functions. The General Assembly did not, however, indicate any disagreement with the way I interpreted what constituted representing oneself as an EMT. Since adopting Am. H.B. 1, the General Assembly has amended the Emergency Medical Technician Act on several occasions, making changes which included extending the time for certification until August 31, 1979, but has never indicated any disagreement with Op. No. 76-060.

medical care or hospitalization." Hence, an agency that leads the public to believe that it provides emergency medical care to victims of serious illness or injury must utilize certified EMTs to provide such service because EMT-As, etc., are defined as persons who are so certified. In 1979 Op. Att'y Gen. No. 79-050, I stated that where an agency regularly responds to calls for emergency medical care with persons who are not certified EMTs, such agency would violate R.C. 4731.92.

Implicit in both Op. No. 76-060 and 79-050 is the assumption that there was a reasonable basis for the public to have called the respective "emergency medical service." This aspect of Op. No. 79-050 is discussed more fully below.

Because your second question is in some respects similar to that considered in Op. No. 79-050, I believe that it would be helpful to review that opinion at this time. In Op. No. 79-050 I was asked whether certain volunteer firefighters who had been providing a "first responder first aid" rescue squad service could continue to provide that service after August 31, 1979. I was advised that the firefighters responded to calls for emergency medical care and would render the kind of care described in R.C. 4731.82(A), which includes, among other things, opening and maintaining an airway, giving positive pressure ventilation, cardiac resuscitation, controlling hemorrhage and treatment of shock. I was also advised that the firefighters did not transport the victims. In sum, the volunteer firefighters described in Op. No. 79-050 were not certified EMTs but were providing emergency medical care "to victims of serious illness or injury prior to the victims receiving professional medical care or hospitalization."

Under those facts I concluded that, if the volunteer fire department were to continue providing this service, the volunteer firefighters would have to become certified EMTs under R.C. 4731.82 through 4731.99. Because the public was regularly calling the volunteer fire department for emergency medical care, it was clear that past actions of the fire department had led the public to believe that the volunteer fire department was an emergency medical service as defined in R.C. 4731.82(E). By continuing to respond to calls for emergency medical care and by providing such care, the firefighters and their organization were representing themselves as EMTs and an emergency medical service, respectively. Therefore, I advised that if the volunteer firefighters were to continue this service, it would be a necessary for them to become certified EMTs.

Although I was able to make a conclusive determination as to whether R.C. 4731.92 prohibited the noncertified firefighters from continuing their service in Op. No. 79-050, I cannot make any such conclusive statement with respect to the volunteers on whose behalf you have inquired because you have not described the kind of medical care the volunteers provide, the regularity with which they perform their functions, and the kind of information the company or volunteers have disseminated to the plant employees with regard to those functions. I can, however, provide you with the following guidance.

First of all, whether an ambulance is used in connection with rendering emergency medical care is not a fact that is determinative of whether a person need be certified as an EMT under R.C. 4731.82 through 4731.99. It was not the use of an ambulance that caused the General Assembly to adopt R.C. 4731.92 through 4731.99. Rather, the General Assembly adopted the Emergency Medical Technician Act because it was concerned about the quality of the emergency medical care received by Ohioans. See Op. No. 76-060 at 2-201. Therefore, even though ambulances are normally used in conjunction with providing emergency medical care, the absence of an ambulance does not eliminate the possibility that a person may be found to be representing himself as an EMT when he provides emergency medical care. See Op. No. 79-050.

Likewise, the fact that the emergency medical care is provided within the confines of the company facility does not preclude the requirements of R.C. 4731.82 to R.C. 4731.99 from applying to your volunteers. See Op. No. 79-042 at 2-137.

Also, if plant employees have been advised to call certain "volunteers" in times of an emergency and the volunteers have provided emergency medical care, there clearly exists a question of fact as to whether such volunteers are representing themselves as EMTs and whether the company has led its employees to believe that the volunteers constituted an emergency medical service. If those volunteers have regularly responded to calls for emergency medical care and provided such care, it is likely that they would be found to be representing themselves as EMTs. Absent specific acts to the contrary, such a situation would give rise to a reasonable assumption that persons providing such care are EMTs and their organization an emergency medical service. This assumption would become conclusive if the persons wore insignia or other distinctive clothing indicating they were EMTs.

However, it is obvious that an individual or organization has control over whether the individual represents himself as an EMT or whether an organization disseminates information that leads the public to believe it is an emergency medical service in violation of R.C. 4731.92. For example, if the company takes affirmative action to make clear that the volunteers are not certified EMTs, that they have limited capabilities because of a lack of training, and that, in times of emergency, where there is a serious illness or injury, the volunteers and an emergency medical service are to be called simultaneously, the company and the individuals would probably not be found to violate R.C. 4731.92.

The importance of getting this kind of information to the company employees is obvious. When an emergency occurs there is no time to evaluate who has proper training to deal with the emergency. The proper person or organization must be called immediately. If the volunteers are called and it turns out that they are not capable of aiding the victims, invaluable time will be lost by having first called the volunteers only to find out that they are not properly trained to handle the emergency. In addition, without proper training, there exists the possibility that a volunteer may not recognize a critical symptom and may apply the wrong medical procedure, making the victim's condition worse. Not only could this be tragic for the victim, but it is also unfair to place the volunteers in situations where they are simply unable to effectively deal with the emergency because of lack of proper training.

Also, I should point out that EMTs, in addition to their medical training, receive training in extraction of victims. Op. No. 79-042 at 2-138. In certain situations knowledge of proper extraction can be as important as thorough knowledge of emergency medical procedures. For these kinds of reasons, R.C. 4731.92 requires those persons who wish to represent themselves as EMTs to become certified EMTs and prohibits organizations that are not emergency medical services from disseminating any information that would lead the public to believe that they are emergency medical services.

Having stated the above, I want to emphasize that I do recognize that individuals with certain skills (such as cardiopulmonary resuscitation) can play an important role in providing emergency aid to injured or ill persons. There is no provision in R.C. 4731.82 through 4731.99 that prohibits any individual from voluntarily giving whatever aid he is able where by happenstance such person is near or at the scene of an emergency. See Op. No. 79-042. Furthermore, persons giving such aid are protected from liability, except for wanton or willful conduct, by the Good Samaritan statute, R.C. 2305.23.

⁷ This is probably another reason why R.C. 4731.92 prohibits a person from representing himself as an EMT and prohibits an agency from disseminating information that would lead the public to believe that it is an emergency medical service unless it actually provides the emergency medical care described in R.C. 4731.82(E), rather than simply prohibiting all persons who are not certified EMTs from providing emergency medical care. See Op. No. 79-042 at 2-136 to -137.

A problem with R.C. 4731.82 through 4731.99 arises where individuals wish to organize and offer their services to the public. In order to make known their services it is necessary to disseminate information. What information is disseminated and what actions are taken will determine whether the organization or individual runs afoul of R.C. 4731.92. This becomes especially critical to existing organizations which have been providing emergency medical care-like services in the past because the public probably perceives them as emergency medical services.

In summary, then, whether a person or organization violates R.C. 4731.92 is a question of fact. However, so long as an organization sponsoring volunteers makes clear that the volunteers are not EMTs and the volunteers do not in any way indicate that they are EMTs, the volunteers and the organization will not violate R.C. 4731.92. However, I must emphasize that whether an individual or organization violates R.C. 4731.92 is a question of fact and will turn on all the facts of each case. Therefore, whether the volunteers on whose behalf you have inquired are required to become certified EMTs will depend upon all the facts, with the determinative facts being how the volunteers have represented themselves and their services to company personnel, as was discussed above.

Your third question asks whether volunteer Red Cross personnel who provide first aid to persons in times of an emergency are prohibited by R.C. 4731.92 through 4731.99 from providing such first aid. You have advised that Red Cross personnel volunteer their services at public gatherings and events such as football games, fairs, etc. You have also stated that these volunteers generally do not provide the kind of medical care described in R.C. 4731.82. Rather, the medical care is usually limited to first aid for minor injuries or illnesses. Typical of the kind of first aid given by the Red Cross volunteers is the cleaning and bandaging of a cut or scrape. For serious illnesses or injuries, EMTs are called to provide emergency medical care.

The above discussion of what constitutes representing an EMT is, of course, applicable here. Whether a person represents himself as an EMT or whether a public or private agency advertises or disseminates information that leads the public to believe that such agency provides emergency medical services is a question of fact and must, therefore, be decided upon the facts of each case. Of special importance to the Red Cross is the information the Red Cross disseminates about the services it provides, since that information is made available to the public at large and is not limited to a particular locale. Also as pointed out above, an individual Red Cross member has control over whether or not he "represents" himself as an EMT. Likewise, the Red Cross can control how the public perceives the kind of services it provides. Hence, the Red Cross must be very careful about the kind of information it disseminates about the services it offers, and if it does not intend to offer emergency medical care as described in R.C. 4731.82(E), it should affirmatively so state.

More importantly, however, I can conclude that the services provided by the Red Cross as described by you do not fall under the purview of R.C. 4731.82 through 4731.99. You indicated that the Red Cross volunteers treat only minor illnesses and injuries. R.C. 4731.82(E) defines "emergency medical service" to be "a public or private organization using EMT-As, ADV EMT-As, or paramedics, or a combination of EMT-As, ADV EMT-As, and paramedics, to provide emergency medical care to victims of serious illness or injury prior to the victims receiving professional medical care or hospitalization." (Emphasis added.) Also, R.C. 4731.82(A) through (C), which defines the three kinds of emergency medical technicians and describes what kind of medical care EMTs may administer, also makes clear that R.C. 4731.82 through 4731.99 were not intended to reach treatment of minor illnesses or injuries. EMTs are authorized to perform advanced medical procedures. Hence, the level of emergency care provided by the Red Cross does not rise to the level that would indicate that the Red Cross is providing emergency medical care as described in R.C. 4731.82(E).

Also, as noted above, R.C. 4731.82 through 4731.99 do not prohibit a Red

Cross volunteer, like any other person, from giving such aid as he is able to a victim of serious injury or illness in an emergency.

Therefore, it is my opinion, and you are advised, that:

1. Although R.C. 4723.06 and R.C. 4723.33 prohibit nurses from diagnosing and administering medical treatment, nurses may, nevertheless, perform such acts pursuant to appropriate standing orders issued by a physician. By the use of standing orders, physicians may authorize registered nurses to perform any emergency medical tasks that emergency medical technicians are authorized to perform pursuant to R.C. 4731.82 through R.C. 4731.99, provided that the nurses possess the necessary skills to perform those tasks. Hence, a nurse need not be certified as an emergency medical technician to perform tasks that emergency medical technicians are authorized to perform. (1979 Op. Att'y Gen. No. 79-042 clarified.)
2. Whether a person represents himself as an emergency medical technician is a question of fact to be determined in light of the circumstances of each case. In order to avoid representing themselves as emergency medical technicians in violation of R.C. 4731.92, volunteers at a plant who are not certified emergency medical technicians, but who respond to calls for emergency medical care and provide such care to victims at the scene of accidents or sudden illnesses, must take affirmative steps to ensure that plant employees are informed that the volunteers are not certified emergency medical technicians and that the volunteers do not constitute an emergency medical service as defined in R.C. 4731.82(E). (1979 Op. Att'y Gen. No. 79-050; 1979 Op. Att'y Gen. No. 79-042; 1976 Op. Att'y Gen. No. 76-060 clarified.)
3. A person does not represent himself as an emergency medical technician in violation of R.C. 4731.92 where by happenstance he is at or near the scene of an emergency and voluntarily administers such aid as he is able. Moreover, such person is protected from liability for the aid he administers, except for wanton or willful acts, by the Good Samaritan statute, R.C. 2305.23.
4. Emergency treatment of minor injuries or illnesses, such as cleaning and bandaging of a cut or scrape, does not fall under the purview of R.C. 4731.82 to R.C. 4731.99, as those sections apply only to emergency medical care administered to victims of serious illnesses or injuries.