

Note from the Attorney General's Office:

1982 Op. Att'y Gen. No. 82-099 was overruled in part by
2013 Op. Att'y Gen. No. 2013-028.

OPINION NO. 82-099**Syllabus:**

1. In order to act as an EMT-A, ADV EMT-A or paramedic within Ohio, an individual must be certified under R.C. 4731.86(A) or R.C. 4731.87 (EMT-A), R.C. 4731.86(C) or 4731.871(A) (ADV EMT-A), or R.C. 4731.86(B) or 4731.87 (paramedic).
2. Pursuant to R.C. 4731.891(A) and R.C. 4731.89(A), an ADV EMT-A or paramedic may not act pursuant to the authorization of a doctor who is not licensed in Ohio. For purposes of R.C. 4731.891(A) and 4731.89(A), doctors certified to practice medicine and surgery under R.C. Chapter 4731 and doctors who are authorized by R.C. 4731.36 to practice medicine and surgery without a certificate are included within the category of licensed doctors.
3. A physician licensed in Ohio who advises an uncertified ADV EMT-A or paramedic acting within the State may be subject to disciplinary action by the State Medical Board under R.C. 4731.22(B)(16).

To: James C. Clem, Adjutant General, Worthington, Ohio
By: William J. Brown, Attorney General, December 10, 1982

I have before me your request for my opinion pertaining to the provision of

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emergency medical services in areas along the borders of the State. Your specific questions are as follows:

1. Can an EMT-A, Advanced EMT-A or Paramedic legally administer care in the State of Ohio if that individual is certified by a state other than Ohio?
2. Can an Ohio certified EMT-A, Advanced EMT-A or Paramedic legally administer care authorized by a physician not licensed in Ohio, when that authorization is communicated by written protocol or by radio communications?
3. Can a physician licensed in Ohio legally give directions to EMTs-A, Advanced EMTs-A and Paramedics who are certified by a state other than Ohio but operating in Ohio?
4. Can a physician licensed in Ohio legally give directions to an EMT-A, Advanced EMT-A or Paramedic certified in Ohio but operating outside of Ohio? Does Section 4731.36 of [the] Ohio Revised Code apply to this question? If so, which neighboring states provide equal rights and privileges?

Your first question asks whether a person may perform the services of an EMT-A, ADV EMT-A or paramedic within Ohio without being certified in Ohio, if he is certified by another state to perform such services. R.C. 4731.92 states in part that:

(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 [July 21, 1978], 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.

False representation as an EMT-A, ADV EMT-A or paramedic, as set forth in R.C. 4731.92, is made a criminal offense pursuant to R.C. 4731.99(E) and (F). Any person providing emergency medical services without having been certified by the state may, therefore, subject himself to the misdemeanor penalties set forth in R.C. 4731.99(E) and (F). 1976 Op. Att'y Gen. No. 76-060.

The certification requirements of R.C. 4731.82 *et seq.* were not intended, however, to apply to persons who render emergency medical services in "Good Samaritan" situations. 1980 Op. Att'y Gen. No. 80-023 (syllabus, paragraph three) ("[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"). I assume, however, that the persons to whom you refer in your first question would not be rendering emergency medical services in "Good Samaritan" situations, and are, therefore, subject to R.C. 4731.92.

Concerning the certification of persons trained outside of Ohio to provide emergency medical services, R.C. 4731.87(C) states, "[t]he accrediting body¹ may enter into reciprocal agreements with other states that have state standards for EMT-A or paramedic programs for the certification of EMT-As or paramedics who

¹R.C. 4731.82(G) defines an accrediting body as "the board of regents for all paramedic and ADV EMT-A programs and the state board of education for all EMT-A and ambulance driver programs."

have been trained in such other states." Under this provision, the appropriate accrediting body may arrange for certification of EMT-As or paramedics who have been trained outside of Ohio. See generally 2 Ohio Admin. Code 3301-65-12 (equivalency certificate for EMT-A). R.C. 4731.871(B) establishes a similar procedure for certification of ADV EMT-A's who have been trained in other states. Neither R.C. 4731.87(C) nor R.C. 4731.871(B), however, abrogates the requirement of R.C. 4731.92 that a person be certified in Ohio prior to representing himself as an EMT-A, ADV EMT-A or paramedic. Thus, a person who desires to act as an EMT-A, ADV EMT-A or paramedic within Ohio must first be certified in Ohio to perform such functions, whether or not he has been certified by another state.

Your second question asks whether an EMT-A, ADV EMT-A or paramedic may administer care authorized by a physician not licensed in Ohio when the authorization is communicated by written protocol or by radio communications. Pursuant to R.C. 4731.82(A) an EMT-A is defined as a person who is certified under R.C. 4731.86(A) or R.C. 4731.87 and who performs those limited functions set forth in R.C. 4731.82(A). See 1977 Op. Att'y Gen. No. 77-085. None of the functions which an EMT-A is authorized to perform must be carried out in cooperation with a licensed physician. An EMT-A may, therefore, perform any function set forth in R.C. 4731.82(A), whether or not the function is authorized by a licensed physician.

An ADV EMT-A is described in R.C. 4731.82(B) as a person certified under R.C. 4731.86(C) or R.C. 4731.871 who:

In addition to performing the functions described in [R.C. 4731.82(A)] may, in conjunction with a cooperating licensed medical doctor, doctor of osteopathic medicine and surgery, or a physician advisory board and in accordance with [R.C. 4731.891], establish and maintain an intravenous lifeline using an infusion of saline, Ringer's lactate, or five percent dextrose and distilled water, or an infusion that has been approved by the cooperating licensed medical doctor, doctor of osteopathic medicine and surgery, or physician advisory board.

R.C. 4731.891 states that when an ADV EMT-A establishes and maintains an intravenous lifeline pursuant to R.C. 4731.82(B), such function:

shall be performed 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.

(B) If communications fail during an emergency situation or the required response time prohibits communication with a person referred to in division (A) of this section, the ADV EMT-A may establish and maintain an intravenous lifeline in accordance with [R.C. 4731.82(B)], if, in his judgment, the life of the patient is in immediate danger.

Pursuant to this section an ADV EMT-A, in establishing and maintaining an intravenous lifeline, generally acts pursuant to the verbal or written authorization of a "licensed" medical doctor or doctor of osteopathic medicine and surgery or of the cooperating physician advisory board.

Similar provisions concerning the functions which a paramedic may perform are set forth in R.C. 4731.89. The section provides that a paramedic may perform certain functions² only pursuant to the authorization of the persons designated

²R.C. 4731.82(C) states that a paramedic may perform the same functions which an EMT-A may perform, in addition to rendering 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 the following life support or intensive care techniques: (1) Cardiac monitoring; (2) Defibrillation; (3) Airway or gastric intubation; (4) Relief of pneumothorax; (5) Administration of appropriate drugs and intravenous fluids."

therein, including a "licensed" medical doctor or doctor of osteopathic medicine and surgery, unless the life of the patient is in immediate danger and communications have failed or the required response time prohibits communications.

Thus, pursuant to R.C. 4731.891 and 4731.89, when an ADV EMT-A or paramedic is performing an emergency medical service under the direction of a doctor, the doctor must be a "licensed" doctor. The term "licensed," as used in R.C. 4731.891 and 4731.89, is not, however, defined. Confusion as to the meaning of this term exists because R.C. Chapter 4731 provides for the issuance of certificates to practice medicine and surgery, but also authorizes certain persons to practice in Ohio without such a certificate. The exceptions to the certification requirements for doctors is set forth in R.C. 4731.36 which states, in pertinent part:

Sections 4731.01 to 4731.47, inclusive, of the Revised Code. . . [shall not] apply to a physician or surgeon residing on the border of a neighboring state and authorized under the laws thereof to practice medicine and surgery therein, whose practice extends within the limits of this state; provided equal rights and privileges are accorded by such neighboring state to the physicians and surgeons residing on the border of this state contiguous to such neighboring state. Such practitioner shall not open an office or appoint a place to see patients or receive calls within the limits of this state.

In order to fully answer your question it is, therefore, necessary to determine whether the term, "licensed," as used in R.C. 4731.891 and R.C. 4731.89 refers only to physicians holding a certificate to practice or also to physicians who are otherwise authorized to practice in Ohio. In 1978 Op. Att'y Gen. No. 78-062, I addressed a similar question in regard to whether an Ohio pharmacist was authorized to fill a prescription written by a practitioner who did not hold a certificate to practice medicine within the state. The opinion stated that a pharmacist had authority to fill prescriptions written by a "practitioner," meaning, in part, a person who is "licensed" pursuant to R.C. Chapter 4731 [physicians and limited practitioners]. In discussing the meaning of the term "license," Op. No. 78-062 states at 2-154: "The term 'license' generally means the permission granted by some competent authority to do some act which would otherwise be illegal. . . . The same term may, however, be used in a more specific sense in which it refers to the certificate or the document which represents the permission granted." The opinion states that since a person authorized to practice without a certificate has authority to prescribe drugs within the state, it would be unreasonable to find that orders for drugs written by such persons did not constitute prescriptions. For this reason, I concluded that the term "licensed," as used in the statutory definition of "practitioner" set forth in R.C. 3719.01(BB) and R.C. 4729.02(H), encompasses all persons authorized to practice medicine or surgery within the state, whether or not such persons hold a certificate to practice. I believe that a similar analysis should be used in interpreting the meaning of the term "licensed" as used in R.C. 4731.89 and 4731.891.

A person authorized under R.C. 4731.36 to practice medicine or surgery in Ohio without a certificate may examine or diagnose for compensation of any kind, or prescribe, advise, recommend, administer or dispense 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. R.C. 4731.34. The practice of medicine as defined in R.C. 4731.34 is very broad and appears to encompass those functions which an ADV EMT-A or paramedic may perform as set forth in R.C. 4731.82(B) and R.C. 4731.82(C), respectively. Since a physician authorized to practice in Ohio without a certificate is authorized by R.C. 4731.36 to recommend the performance of the functions described in R.C. 4731.82(B) and (C), I believe that such a doctor must be considered "licensed" for purposes of R.C. 4731.89 and 4731.891.

In answer to your question, an ADV EMT-A or paramedic may perform the functions set forth in R.C. 4731.82(B) and R.C. 4731.82(C), respectively, pursuant to the authorization of a doctor who has been certified under R.C. Chapter 4731 to

practice medicine and surgery or who is authorized by R.C. 4731.36 to practice medicine and surgery in Ohio without a certificate.

Your third question asks whether a physician licensed in Ohio may direct the actions of EMT-A's, ADV EMT-A's, and paramedics who are not certified by Ohio, but who are operating in Ohio. The services which an EMT-A may perform need not be performed in conjunction with a licensed doctor. I will, therefore, limit your question to a discussion of a physicians advising ADV EMT-A's and paramedics.

As stated in answer to your first question, a person may not act as an ADV EMT-A, or paramedic in Ohio without being certified by the State. Without such certification, a person acting as an ADV EMT-A or paramedic in Ohio may subject himself to the misdemeanor penalties set forth in R.C. 4731.99(E) and (F).

R.C. 4731.22, concerning disciplinary action by the State Medical Board, states, in part:

(B) The board by a vote of not less than six members shall, to the extent permitted by law, limit, revoke or suspend a certificate[,] refuse to register or refuse to reinstate an applicant, or reprimand or place on probation the holder of a certificate for one or more of the following reasons:

. . .

(16) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board.

If a physician licensed in Ohio were to advise a person who was not certified in Ohio but was acting as an ADV EMT-A or paramedic within the State, such action on the part of the physician may constitute grounds for discipline by the State Medical Board under R.C. 4731.22. Such a determination would, of course, depend upon the particular facts involved in each situation.

You also ask several questions concerning the authority of physicians licensed in Ohio to direct the performance of EMT-A's, ADV EMT-A's, and paramedics operating outside of Ohio. Ohio's statutes merely permit doctors to authorize ADV EMT-A's and paramedics certified by, and acting within, this State to perform certain acts that constitute the practice of medicine. 1980 Op. Att'y Gen. No. 80-023. The resolution of your questions, however, depends upon what actions constitute the practice of medicine as governed by the laws of the states in which the emergency services are provided. I am, therefore, unable to answer your last question.

Based on the foregoing, it is my opinion, and you are advised, that:

1. In order to act as an EMT-A, ADV EMT-A or paramedic within Ohio, an individual must be certified under R.C. 4731.86(A) or R.C. 4731.87 (EMT-A), R.C. 4731.86(C) or 4731.871(A) (ADV EMT-A), or R.C. 4731.86(B) or 4731.87 (paramedic).
2. Pursuant to R.C. 4731.891(A) and R.C. 4731.89(A) an ADV EMT-A or paramedic may not act pursuant to the authorization of a doctor who is not licensed in Ohio. For purposes of R.C. 4731.891(A) and 4731.89(A), doctors certified to practice medicine and surgery under R.C. Chapter 4731 and doctors who are authorized by R.C. 4731.36 to practice medicine and surgery without a certificate are included within the category of licensed doctors.

³R.C. 4731.36, which you mention in your request, merely provides exemptions from those statutes which govern the practice of medicine and surgery and other activities regulated in R.C. 4731.01 to 4731.47, inclusive, within Ohio.

3. A physician licensed in Ohio who advises an uncertified ADV EMT-A or paramedic acting within the State may be subject to disciplinary action by the State Medical Board under R.C. 4731.22(B)(16).