

August 2, 2018

The Honorable Dennis P. Will  
Lorain County Prosecuting Attorney  
225 Court Street, 3rd Floor  
Elyria, Ohio 44035

SYLLABUS:

2018-019

The board of trustees of a joint ambulance district may, pursuant to R.C. 505.72, contract with a nonprofit corporation to receive ambulance services from an emergency medical service organization that is licensed to provide ambulance services pursuant to R.C. 4766.04.



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OPINION NO. 2018-019

The Honorable Dennis P. Will  
Lorain County Prosecuting Attorney  
225 Court Street, 3rd Floor  
Elyria, Ohio 44035

Dear Prosecutor Will:

You have requested an opinion whether the board of trustees of a joint ambulance district established pursuant to R.C. 505.71 may contract with a nonprofit corporation to provide the district with ambulette services.<sup>1</sup> You explain that the Central Lorain County Joint Ambulance District (CLCJAD) currently contracts with Allen Medical Center doing business as Mercy Allen Hospital (Mercy), a nonprofit corporation and emergency medical service organization, to provide emergency medical services on the CLCJAD's behalf.<sup>2</sup> You further indicate that the members of the board of trustees of the CLCJAD are interested in providing ambulette services to homebound residents and residents in assisted living facilities with medical conditions that limit the residents' mobility by contracting with Mercy to provide these ambulette services.

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<sup>1</sup> "Ambulette" is defined as "a motor vehicle that is specifically designed, constructed, or modified and equipped and is intended to be used for transportation upon the streets or highways of this state of persons who require use of a wheelchair or other mobility aid." R.C. 4766.01(E); Sub. H.B. 195, 132nd Gen. A. (2018) (eff. Aug. 1, 2018).

The General Assembly enacted legislation in 2018 that amends various provisions of R.C. Chapter 4766 and re-numbers certain statutory provisions. *See* Sub. H.B. 195, 132nd Gen. A. (2018) (eff. Aug. 1, 2018). In this opinion, we will use the re-numbered provisions that took effect on August 1, 2018.

<sup>2</sup> "Emergency" has been defined as "a sudden, generally unexpected occurrence or set of circumstances demanding immediate attention," *Webster's New World College Dictionary* 475 (5th ed. 2014), and a situation "where there is 'an urgent need for assistance or relief.'" 2016 Op. Att'y Gen. No. 2016-023, at 2-249 n.2 (quoting *Merriam-Webster's Collegiate Dictionary* 407 (11th ed. 2005)).

Such services would be used, for example, to transport residents to and from physician appointments.

**Authority of a Joint Ambulance District to Contract to Receive Emergency Medical Services under R.C. 505.72**

The board of trustees of a joint ambulance district is a creature of statute with only those powers expressly granted to it by law or necessarily implied thereby. *See* 1987 Op. Att’y Gen. No. 87-049, at 2-317, 2-320. The board is composed of representatives from the townships and municipal corporations that have joined together to establish a joint ambulance district. *See* R.C. 505.71. R.C. 505.72(B)(1) authorizes the board of trustees of a joint ambulance district to contract with a nonprofit corporation to obtain emergency medical services:

*In order to obtain the services of ambulance service organizations, to obtain additional services from ambulance service organizations in times of emergency, or to obtain the services of emergency medical service organizations, a district may enter into a contract, for a period not to exceed three years, with ... nonprofit corporations ..., upon such terms as are agreed to, to furnish or receive services from ambulance or emergency medical service organizations or the interchange of services from ambulance or emergency medical service organizations within the several territories of the contracting subdivisions, if such contract is first authorized by all boards of trustees and legislative authorities concerned. (Emphasis added.)*

R.C. 505.72 adopts the definition of “[e]mergency medical service organization” as that term is defined at R.C. 4765.01(H), which states:

“Emergency medical service organization” means a public or private organization using first responders, EMTs-basic, EMTs-I, or paramedics, or a combination of first responders, EMTs-basic, EMTs-I,<sup>3</sup> and paramedics, to provide emergency medical services.

*See also* R.C. 505.72(B) (“[a]s used in this division, ‘emergency medical service organization’ has the same meaning as in section 4765.01 of the Revised Code”). In turn, “emergency medical service” is defined at R.C. 4765.01(G):

“Emergency medical service” means any of the services described in sections 4765.35, 4765.37, 4765.38, and 4765.39 of the Revised Code that are performed by first responders, emergency medical technicians-basic, emergency medical technicians-intermediate, and paramedics. “Emergency medical service”

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<sup>3</sup> “EMT” stands for “emergency medical technician.”

includes such services performed before or during any transport of a patient, including transports between hospitals and transports to and from helicopters.

### **Interaction between R.C. Chapters 4765 and 4766**

Although R.C. 505.72 adopts the definition of “emergency medical service organization” as that term is defined in R.C. 4765.01, *see* R.C. 505.72(B), it is also helpful to consider the treatment of emergency medical service organizations in R.C. Chapter 4766 in light of the legislative and regulatory background of R.C. Chapters 4765 and 4766. In 2013, the General Assembly enacted legislation that combined the former Medical Transportation Board and State Board of Emergency Medical Services into a single board, renamed the State Board of Emergency Medical, Fire, and Transportation Services. Am. Sub. H.B. 51, 130th Gen. A. (2013) (eff. July 1, 2013). The State Board of Emergency Medical, Fire, and Transportation Services was authorized to administer both Chapters 4765 and 4766 of the Revised Code and promulgate rules thereunder. *See id.*; *see also* R.C. 4765.10(A)(1); R.C. 4765.59; R.C. 4766.03; Ohio Legislative Service Comm’n, Final Bill Analysis, Am. Sub. H.B. 51, at p. 36, 45 (2013). R.C. 4766.01(H) defines “emergency medical service organization” similarly to R.C. 4765.01(H), stating as follows:

“Emergency medical service organization” means an organization that uses EMTs, AEMTs, or paramedics, or a combination of EMTs, AEMTs, and paramedics, to provide medical care to victims of illness or injury. An emergency medical service organization includes, but is not limited to, a commercial ambulance service organization, *a hospital*, and a funeral home.<sup>4</sup> (Emphasis and footnote added.)

Although the definitions of “emergency medical service organization” under R.C. 4765.01 and R.C. 4766.01 differ somewhat in their language, their operative meanings are the same. Specifically, both definitions include organizations that utilize the services of EMTs to provide emergency medical care. Under R.C. 4765.01(H), a hospital that utilizes the services of EMTs to provide emergency medical care is an emergency medical service organization. Under R.C. 4766.01(H), a hospital is expressly included within the definition of emergency medical

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<sup>4</sup> EMT, AEMT, and paramedic, “have the same meanings as in sections 4765.01 and 4765.011 of the Revised Code.” R.C. 4766.01(I). R.C. 4765.011(A)(2) states that “[a]n emergency medical technician-basic or EMT-basic shall be also known as an emergency medical technician or EMT, respectively.” R.C. 4765.011(A)(3) states that “[a]n emergency medical technician-intermediate or EMT-I shall be also known as an advanced emergency medical technician or AEMT, respectively.” *See also* R.C. 4765.011(B)(2) (“[a] reference to an emergency medical technician-basic or EMT-basic is deemed to be a reference to an emergency medical technician or EMT, respectively”); R.C. 4765.011(B)(3) (“[a] reference to an emergency medical technician-intermediate or EMT-I is deemed to be a reference to an advanced emergency medical technician or AEMT, respectively”).

service organization. Thus, given the congruence between the two definitions and because the State Board of Emergency Medical, Fire, and Transportation Services administers both chapters of the Revised Code in which the definitions appear and promulgates rules thereunder, we understand the definitions to be interchangeable. References to an emergency medical service organization in either R.C. Chapter 4765 or R.C. Chapter 4766 may be considered to also encompass the definition of emergency medical service organization in the other chapter. *State ex rel. Herman v. Klopffleisch*, 72 Ohio St. 3d 581, 585, 651 N.E.2d 995 (1995) (“[a]ll statutes relating to the same general subject matter must be read *in pari materia*, and in construing these statutes *in pari materia*, this court must give them a reasonable construction so as to give proper force and effect to each and all of the statutes”). Accordingly, when R.C. 505.72 authorizes the board of trustees of a joint ambulance district to contract to receive the services of an emergency medical service organization, we understand that language to mean that the board of trustees may contract to receive whatever services an emergency medical service organization is authorized to provide under R.C. Chapter 4765 and R.C. Chapter 4766.<sup>5</sup>

### **Authority of an Emergency Medical Service Organization to Provide Ambulette Services**

R.C. 4766.04(H) authorizes an emergency medical service organization to provide ambulette services so long as the organization has been licensed to provide such services. Specifically, R.C. 4766.04(H) states that “[a]n emergency medical service organization that wishes to provide ambulette services to the public must apply for a separate license under [R.C. 4766.04(C)].”<sup>6</sup> An organization

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<sup>5</sup> You have indicated that Mercy Allen Hospital is both a nonprofit corporation and an “emergency medical service organization,” as that term is defined at R.C. 4765.01(H). Given the similarities between the definitions of “emergency medical service organization” under R.C. 4765.01(H) and R.C. 4766.01(H), we also will treat Mercy Allen Hospital as an “emergency medical service organization,” as defined in R.C. 4766.01(H), particularly in light of the express inclusion of “hospital” within the definition.

<sup>6</sup> R.C. 4766.04 was amended in 2003 to authorize emergency medical service organizations to provide ambulette services so long as they became licensed as a nonemergency medical service organization. *See* 2003-2004 Ohio Laws, Part II, 3065, 3085-3087 (Am. Sub. H.B. 85, eff. Mar. 9, 2004); Ohio Legislative Service Comm’n, Final Bill Analysis, Am. Sub. H.B. 85, at p. 9 (2003) (“[i]f an emergency medical service organization wishes to provide ambulette services to the public, the act requires the organization to apply for a separate license as a nonemergency medical service organization”).

Together, R.C. 4766.04 and the Ohio Administrative Code provide a detailed licensing and regulatory framework for those organizations that provide ambulette services. *See generally* 11B Ohio Admin. Code 4766-3 (2017-2018 Supplement). For example, each ambulette vehicle must be a “permitted vehicle,” meaning that the State Board of Emergency Medical, Fire, and Transportation Services must authorize each vehicle to operate as an ambulette. *See* R.C.

that provides ambulette services is an organization that “[p]rovides services to the public on a regular basis for the purpose of transporting individuals *who require the use of a wheelchair or other mobility aid to receive health care services in nonemergency circumstances*” and charges a fee for those services. *See* R.C. 4766.01(R)(1) (emphasis added); *see also* 11B Ohio Admin. Code 4766-3-01(B) (2017-2018 Supplement).<sup>7</sup> “Health care services” are defined for purposes of R.C. 4766.01(R) as “services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.” R.C. 4766.01(L); R.C. 3922.01(O). This definition encompasses transport of patients who require the use of a wheelchair or other mobility aid to and from routine physician appointments. *See, e.g., Black’s Law Dictionary* 1502 (6th ed. 1990) (defining “treatment” as “[a] broad term covering all the steps taken to effect a cure of an injury or disease; including examination and diagnosis as well as application of remedies”). Therefore, an emergency medical service organization may provide ambulette services, including the transport of patients who require the use of a wheelchair or other mobility aid to and from physician appointments, so long as the organization is licensed to provide ambulette services.

In sum, R.C. 4766.04(H) authorizes an emergency medical service organization to provide ambulette services so long as the organization is licensed to provide such services pursuant to R.C. 4766.04(C). Ambulette services for which a license is required include transporting patients who require the use of a wheelchair or other mobility aid to and from physician appointments. *See* R.C. 4766.01(E); 11B Ohio Admin. Code 4766-3-01(B) (2017-2018 Supplement); *see also* R.C. 4766.01(R). Therefore, the board of trustees of a joint ambulance district may, pursuant to R.C. 505.72, contract with a nonprofit corporation to receive

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4766.04(C)(1); R.C. 4766.07; 11B Ohio Admin. Code 4766-3-01(M) (2017-2018 Supplement); 11B Ohio Admin. Code 4766-3-07 (2017-2018 Supplement). Ambulette operators must be trained and licensed and, in particular, must receive training on passenger assistance, including how to properly manage a wheelchair, how to properly secure a client in the wheelchair, and how to properly transfer passengers into and out of an ambulette. 11B Ohio Admin. Code 4766-3-13(A)(5) (2017-2018 Supplement). In addition, to qualify for a license to provide ambulette services, an organization must “[m]eet all the requirements established in rules adopted by the state board of emergency medical, fire, and transportation services regarding ambulettes, including requirements pertaining to equipment, communication systems, staffing, and level of care the organization is permitted to render.” *See* R.C. 4766.04(C)(2).

<sup>7</sup> In light of the amendments to R.C. Chapters 4765 and 4766 that took effect on August 1, 2018, some provisions of the Ohio Administrative Code do not, at present, accurately refer to corresponding provisions of the Ohio Revised Code. For example, 11B Ohio Admin. Code 4766-3-01(B) (2017-2018 Supplement) states that “ambulette service” shall have the same meaning as “nonemergency medical service organization” as defined at R.C. 4766.01(P). However, following the 2018 amendments, “nonemergency medical service organization” is now defined at R.C. 4766.01(R). These discrepancies are of a clerical nature and do not affect the analysis provided in this opinion.

ambulette services from an emergency medical service organization so long as the emergency medical service organization is licensed to provide ambulette services pursuant to R.C. 4766.04.<sup>8</sup>

### **Conclusion**

Based on the foregoing, it is my opinion, and you are hereby advised that the board of trustees of a joint ambulance district may, pursuant to R.C. 505.72, contract with a nonprofit corporation to receive ambulette services from an emergency medical service organization that is licensed to provide ambulette services pursuant to R.C. 4766.04.

Very respectfully yours,



MICHAEL DEWINE  
Ohio Attorney General

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<sup>8</sup> R.C. 505.72 also authorizes the board of trustees of a joint ambulance district to contract to receive the services of an ambulance service organization. “Ambulance” is defined as “any motor vehicle that is used, or is intended to be used, for the purpose of responding to emergency medical situations, transporting emergency patients, and administering emergency medical service to patients before, during, or after transportation.” R.C. 4765.01(E). *Accord* R.C. 4766.01(D) (defining “ambulance” as “any motor vehicle that is specifically designed, constructed, or modified and equipped and is intended to be used to provide basic life support, intermediate life support, advanced life support, or mobile intensive care unit services and transportation upon the streets or highways of this state of persons who are seriously ill, injured, wounded, or otherwise incapacitated or helpless. ‘Ambulance’ does not include ... a vehicle designed and used solely for the transportation of nonstretcher-bound persons, whether hospitalized or handicapped or whether ambulatory or confined to a wheelchair”). Thus, an organization that wishes to provide ambulette services on a routine basis to patients who require the use of a wheelchair or other mobility aid should comply with the detailed licensing and regulatory framework under R.C. 4766.04 and 11B Ohio Admin. Code 4766-3 (2017-2018 Supplement) and ambulances should not be used to provide those ambulette services.

Under certain circumstances, the General Assembly has authorized EMTs to perform emergency medical services in nonemergency situations. *See* R.C. 4765.361; 2016 Op. Att’y Gen. No. 2016-023, at 2-253 to 2-254. These circumstances, however, are contrasted with the routine provision of ambulette services, which are governed by the separate and detailed frameworks of R.C. 4766.04 and 11 Ohio Admin. Code 4766-3 (2017-2018 Supplement).