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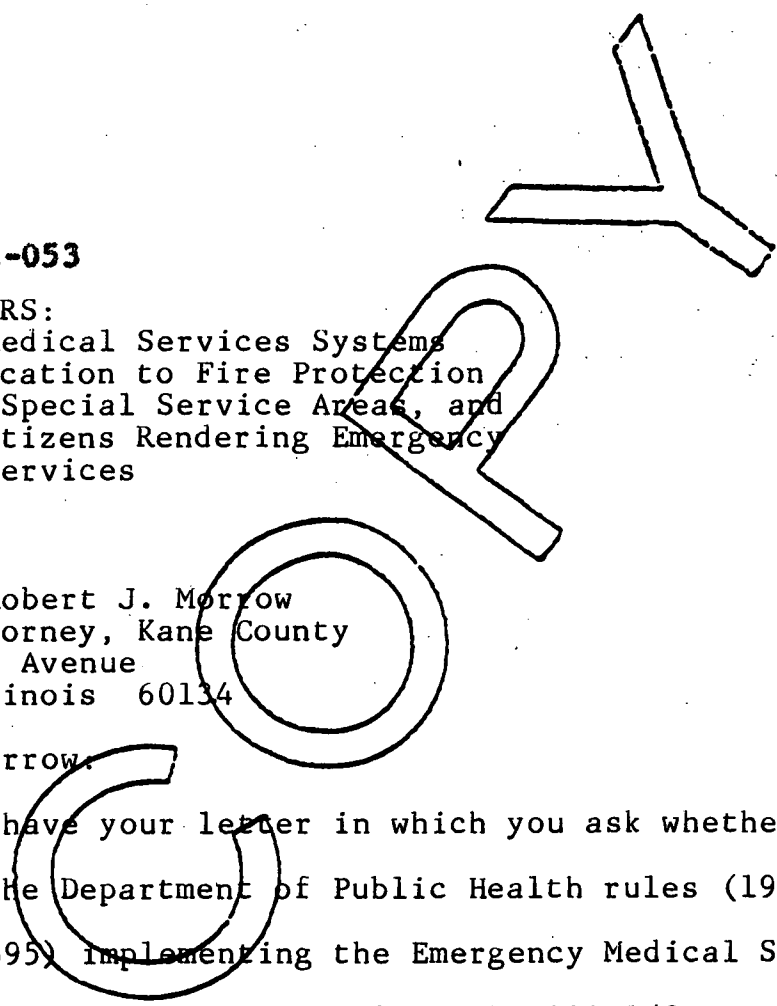
FILE NO. 82-053

STATE MATTERS:
Emergency Medical Services Systems
Act - Application to Fire Protection
Districts, Special Service Areas, and
Ordinary Citizens Rendering Emergency
First Aid Services

Honorable Robert J. Morrow
State's Attorney, Kane County
719 Batavia Avenue
Geneva, Illinois 60134

Dear Mr. Morrow:

I have your letter in which you ask whether section 535.65 of the Department of Public Health rules (1981 Illinois Register 5695) implementing the Emergency Medical Services Systems Act (Ill. Rev. Stat. 1981, ch. 111 1/2, par. 5501 et seq.) applies (1) to employees of a fire protection district who regularly provide ambulance service and emergency medical



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care, or (2) to persons who provide such care to "special service areas" in ambulances which are owned by a county. For the reasons hereafter stated, the answer to your first two questions is yes. Thirdly, you inquire what constitutes "actively functioning as an EMT-A" for purposes of section 535.65. You also ask the related question of whether rule 535.65 applies to ordinary citizens giving first aid in an emergency. As explained below, the phrase "actively functions as an EMT-A" refers to those persons who perform basic life support services, as defined in section 4.06 of the Act, on a regular and ongoing basis. Neither the Act nor section 535.65 of the Department's rules prohibits ordinary citizens from rendering first aid services on an occasional or one-time basis.

Section 535.65 of the Department of Public Health rules provides as follows:

"Any individual who actively functions as an EMT-A [Emergency Medical Technician-Ambulance] without a current certificate is subject to the provisions of the penalty clause contained in Section 20 of the Act."

Section 9 of the Emergency Medical Services Systems Act (Ill. Rev. Stat. 1981, ch. 111 1/2, par. 5509) provides in pertinent part:

"(a) The Department [of Public Health] shall promulgate rules providing standards, licensing and annual inspections for all ambulances including those vehicles operated in ALS/MICU programs, however, rules issued under this Act, including rules issued under Section 12, providing for such standards, licensing

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and inspections shall not apply to any ambulance which is or may be owned, operated, licensed or regulated by any unit of local government.

* * *

"

(Emphasis added.)

Thus, subsection (a) exempts any ambulance vehicle which is owned, operated, licensed or regulated by any unit of local government from the requirements of the Department's implementing rules. Subsection (b) of section 9 (Ill. Rev. Stat. 1981, ch. 111 1/2, par. 5509(b)) provides in pertinent part that:

"Such standards, licensing and annual inspections shall include the vehicles themselves, as well as the equipping, training and current certification of staff thereof. * * *" (Emphasis added.)

Thus, reading these two subsections together, the question arises whether the General Assembly intended the exemption contained in subsection (a) to encompass a rule, such as the one at issue here, which relates to the operating personnel of the ambulance vehicle, not the vehicle itself. If so, rule 535.65 would not apply to persons who operate any ambulance which is owned, operated, licensed or regulated by any unit of local government.

The principal source of legislative intent is the language used in the statute. (People ex rel. Mayfield v. City of Springfield (1959), 16 Ill. 2d 609, 615.) Taken by itself,

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the precise language of the exemption is as follows: "* * * rules issued under this Act * * * providing for such standards, licensing and inspections shall not apply to any ambulance which is owned, operated, licensed or regulated by any unit of local government". (Emphasis added.) (Ill. Rev. Stat. 1981, ch. 111 1/2, par. 5509.) Thus, the rules subject to the exemption are those referred to in the preceding provision of subsection (a), i.e., those "* * * rules providing standards, licensing and annual inspections for all ambulances, including those vehicles operated in ALS/MICU programs * * *". (Emphasis added.) Secondly, the exemption provides that the specified rules "* * * shall not apply to any ambulance which is or may be owned * * *" by any unit of local government. There is no reference to the personnel of the vehicle in the language of the exemption itself. In addition, the title of section 9, which was part of the original Public Act, is "Standards for Ambulance Operation." A section title may be considered in construing an ambiguous statute. (Merchants National Bank of Aurora v. Olson (1975), 27 Ill. App. 3d 432, 433.) Furthermore, both of the two subsequent subsections of section 9 provide "grandfather clauses" for certain types of "vehicles". Consequently, the language of the statute indicates that the exemption contained in section 9 pertains only to ambulance vehicle standards, not staff certification requirements.

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This conclusion is supported by a reading of this provision in conjunction with the Act as a whole. All the statutory definitions of the three types of emergency medical technicians include a current certification requirement. (Ill. Rev. Stat. 1981, ch. 111 1/2, pars. 5504.3, 5504.4, 5504.6.) Section 11 of the Act (Ill. Rev. Stat. 1981, ch. 111 1/2, par. 5511), which sets forth the scope of permissible activities which may be performed by each type of emergency medical technician, is expressly limited to "any person currently certified * * *" as an emergency medical technician. Similarly, the various provisions of section 17 (Ill. Rev. Stat. 1981, ch. 111 1/2, par. 5517) provide immunity from civil liability only to those persons, agencies, or governmental bodies which are certified under the Act. Taken together, these provisions demonstrate that the staff certification requirement is central to the regulatory scheme of the Act. Accordingly, the exemption contained in section 9 of the Act must be construed to include only those rules concerning ambulance vehicle standards and not those involving personnel certification requirements.

That the scope of the exemption contained in section 9 is limited to rules relating to ambulance vehicles, not the staff thereof, was made clear in the legislative debates on the statute. The original legislation, House Bill 2227, contained no exemption for units of local government. The exemption was

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added by Amendment 4 in the Senate. Its sponsor explained the effect of the proposed amendment in the following terms:

"* * *[I]t maintains those portions of the bill relating to the standards for the emergency service personnel, the paramedics and our rescue squads and that; but it deletes the department's authority to establish standards and inspect municipally owned or publicly owned ambulances, * * *" (Emphasis added.) (Remarks of Sen. Schaffer, June 25, 1980, Senate Debate on House Bill 2227, at 251.)

The discussion on Senate Amendment 4 in the House contains no reference to operating personnel but rather is focused on the ambulance vehicles. (See Remarks of Rep. Reilly, June 28, 1980, House Debate on House Bill 2227, at 37-38.) In 1981, House Bill 1789 was proposed for the purposes of deleting the exemption from section 9 of the Act and authorizing the Department to increase its staffing requirements for certain types of vehicles while allowing the agency to waive its requirements under certain conditions. The sponsor of the bill described its origins in the following manner:

"* * * The Bill started out in response to the ambulance scandal that was in the newspapers several months ago. It would have required inspection of ambulances, for all ambulances, the privates [sic] as well as municipally owned. * * *" (Emphasis added.) (Remarks of Rep. Braun, July 1, 1981, House Debate on House Bill 1789, at 72.)

However, the exemption was restored to the bill by Senate Amendment 3. See Remarks of Sen. Newhouse, June 26, 1981,

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Senate Debate on House Bill 1789, at 394, 396; Public Act 82-103.

In sum, the language of the statute, its construction in conjunction with the Act as a whole, and its record in the General Assembly, evidence a legislative intent that the exemption is limited to rules relating only to ambulance vehicles, not the staff thereof. Because rule 535.65 is a personnel certification regulation, it is outside the scope of the exemption contained in section 9 of the Act. Therefore, since no other exemption is applicable, it is my opinion that rule 535.65 applies to employees of fire protection districts who regularly provide ambulance and emergency medical care and to persons providing such care to special service areas in ambulances which are owned by the county.

Finally, you inquire what constitutes "actively functioning as an EMT-A" for purposes of section 535.65. You also ask the related question whether rule 535.65 applies to ordinary citizens giving first aid in an emergency.

Section 11 of the Act (Ill. Rev. Stat. 1981, ch. 111 1/2, par. 5511) articulates the permissible scope of activities in which currently certified emergency medical technicians may engage. In pertinent part, it provides as follows:

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"* * * (a) Any person currently certified as an EMT-A, EMT-I or EMT-P may perform life support services as defined in Section 4.06.

* * *

"

Section 4.06 of the Act (Ill. Rev. Stat. 1981, ch. 111 1/2, par. 5504.06) defines basic life support services as:

"* * * the rendering of basic level of pre-hospital and inter-hospital emergency care, including but not limited to, airway management, cardiopulmonary resuscitation, control of shock and bleeding and splinting of fractures, as outlined in a basic emergency care course approved by the Illinois Department of Transportation."

Thus, a strict definition of the phrase "individual who actively functions as an EMT-A" would include any person who provides any such emergency care as outlined in section 4.06 of the Act. Read literally, this would even apply to an ordinary citizen who renders such care in only one instance.

However, such an inflexible interpretation of the regulation would be inappropriate in these circumstances and contrary to the well-established rules of construction for administrative regulations. These rules of construction have been summarized by one court in the following manner:

" * * *

Perhaps the first rule of construction as to administrative rules and regulations is that rules made in the exercise of a power delegated by statute should be construed together with the statute to make, if possible, an effectual piece of legislation in harmony with common sense and sound reason. The second rule is that generally the same rules of

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construction and interpretation govern the construction and interpretation of rules and regulations of administrative agencies as apply to statutes in the same field. [Citation.]

* * *

(Shell Oil Co. v. Illinois Pollution Control Bd. (1976), 37 Ill. App. 3d 264, 272-73.)

Thus, applying the plain meaning rule of statutory construction (see General Motors Corp. v. Industrial Commission of Illinois (1975), 62 Ill. 2d 106, 112) to section 535.65, it is clear that the phrase "actively functions as an EMT-A" refers to individuals engaged in the rendering of life support services on a regular and ongoing basis. Webster's Third New International Dictionary (1981) defines "active" as "* * * engaged in full-time service * * *" and "function" as "* * * to carry on a function or be in action * * *". Thus, the phrase "actively functions as an EMT-A" must be construed to mean the activities of persons who perform basic life support services, as defined in section 4.06 of the Act, on a regular and ongoing basis.

This conclusion is consistent with the legislature's expressly-stated intention in adopting the Act. Section 2 of the Act (Ill. Rev. Stat. 1981, ch. 111 1/2, par. 5502) provides in pertinent part:

"The Legislature finds and declares that it is the intent of this legislation to provide the State with a system for emergency medical services by establishing within the State Department of Public

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Health a central authority responsible for the coordination and integration of all State activities concerning pre-hospital emergency medical services and the overall planning, evaluation, and regulation of pre-hospital emergency medical services systems. Where feasible and cost effective, emergency medical service systems should be designed and implemented on a regional basis.

* * *

"

It is evident that the Emergency Medical Services Systems Act is aimed at the development of a coordinated system for the delivery of emergency medical services. Applying the Act's regulatory and certification standards to sporadic or isolated instances of first aid services by ordinary citizens would not further this policy.

For these reasons, it is my opinion that section 535.65 of the Department of Public Health Rules for implementing the Emergency Medical Services Systems Act does not apply to ordinary citizens who may provide emergency medical care on an occasional or one-time basis.

Very truly yours,


A T T O R N E Y G E N E R A L