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Declaratory Ruling 2009/001

The Otsego County Medical Control Authority (OCMCA) has requested a Declaratory Ruling from the Michigan Department of Community Health (MDCH) pursuant to MCL 24.263 and Administrative Rule 325.1211, relative to Medical Control Authorities' protocols concerning inter-facility transfers by ambulance services. I granted OCMCA's request on the following question:

May a Medical Control Authority (MCA) adopt a protocol that allows its life support agencies to perform inter-facility transfers which both begin and end outside of the MCA's jurisdiction?

The Public Health Code (Code), 1978 PA 368, MCL 333.1101 *et seq.*, protects the public health and provides for the regulation of health services and activities. Part 209 of the Code, MCL 333.20901 *et seq.*, entitled Emergency Medical Services, regulates pre-hospital care in Michigan. Section 20904 defines "emergency medical services" as follows:

Emergency medical services has been defined to mean the emergency medical services personnel, ambulances, non-transport pre-hospital life support vehicles, aircraft transport vehicles, medical first response vehicles, and equipment required for transport or treatment of an individual requiring medical first response life support, basic life support, limited advanced life support, or advanced life support.

Section 20902(5) defines an ambulance operation as:

A person licensed under this part to provide emergency medical services and patient transport, for profit or otherwise.

Section 20921(1) requires an ambulance operation to do all of the following:

- (a) Provide at least 1 ambulance available for response to requests for emergency assistance on a 24-hour-a-day, 7-day-a-week basis in accordance with local medical control authority protocols.
- (b) Respond or ensure that a response is provided to each request for emergency assistance originating within the bounds of its service area.

(c) Operate under the direction of a medical control authority or the medical control authorities with jurisdiction over the ambulance operation.

Section 20910(1)(g) authorizes establishment of local medical control authorities as part of a statewide emergency medical services system to supervise emergency medical services in their designated geographical regions.

In *DenBoer v Lakola Medical Control Authority*, 204 Mich App 498, 501 (2000), the Court of Appeals summarized the powers of a local medical control authority:

The statewide emergency medical services system is governed by local MCAs [medical control authorities], which are organized and administered by local hospitals within each geographic region. Each person licensed under the . . . act is accountable to their local MCA and the provision of emergency medical services The MCAs have statutory power and authority to supervise emergency medical services, and to govern the practice of licensed medical services personnel.

240 Mich App at 500-501.

Administrative Rule 325.22103 states: "Service area means the geographic area in which a life support agency is licensed to provide emergency medical services for responding to an emergency." The service area is designated by MDCH on the agency's license.

Section 20919(1) requires local medical control authorities to establish written protocols for emergency medical services personnel. The Code provides in pertinent part:

(1) A local medical control authority shall establish written protocols for the practice of life support agencies and licensed emergency medical services personnel within its region. The protocols shall be developed and adopted in accordance with procedures established by the department and shall include all of the following:

(a) The acts, tasks, or functions that may be performed by each type of emergency medical services personnel licensed under this part.

(b) Medical protocols to ensure the appropriate dispatching of a life support agency based upon medical need and the capability of the emergency medical services system.

The Code defines “protocol” as “a patient care standard, standing orders, policy, or procedure for providing emergency medical services that is established by a medical control authority and approved by the department under section 20919.” MCL 333.20908(9). The Attorney General declared in Opinion No. 7072, “nothing in the code . . . limits the application of these protocols to emergency personnel only when they are engaged in the transport of emergency patients.” AG Op No. 7072, p 6. The Attorney General concluded in that opinion, “therefore, an emergency medical service, when transporting a person from one health facility to another, must follow protocols adopted by a local medical control authority established under Part 209 of the Public Health Code.” *Id.*, pp. 6-7

It is my role to implement Part 209 according to the legislative intent, as expressed by the plain language of the statute. Based on the plain language of Part 209, it is apparent the legislature intended for the statewide emergency medical services system to be governed by local medical control authorities. Section 20906(4) defines “medical control” as the supervising and coordinating of emergency medical services through a medical control authority, as prescribed, adopted, and enforced through department-approved protocols, within an emergency medical services system. Section 20918(6) provides “each life support agency and individual licensed under this part is accountable to the MCA in the provision of emergency medical services, as defined in protocols developed by the MCA and approved by the department.”

Medical control authorities can establish written protocols for the practice of life support agencies within their geographic region. If a MCA were to adopt a protocol detailing how its life support agencies might perform inter-facility transfers which both begin and end outside of the MCA's region, however, then that protocol might well infringe on the protocols developed by the

other MCA where the inter-facility transfer may entirely occur. Consequently, it is my ruling that under Part 209 of the Public Health Code, a medical control authority may adopt a protocol or protocols that allow its life support agencies to perform inter-facility transfers which both begin and end outside of the MCA's jurisdiction, as long as those protocols are coordinated with and consistent with the protocols imposed by the MCA in the geographic region(s) where the transfer begins or ends, and have been approved by MDCH.

August 11, 2009
Date

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