



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

December 13, 1990

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

ATTORNEY GENERAL OPINION NO. 90- 134

Pat Johnson
Executive Administrator
Kansas State Board of Nursing
Landon State Office Bldg., Room 551
Topeka, Kansas 66612-1256

Re: Public Health -- Emergency Medical Services --
Mobile Intensive Care Technicians; Authorized
Activities

Synopsis: Mobile intensive care technicians (MICTs) are authorized by statute to perform certain tasks during emergencies when in contact with a physician or nurse. If prior voice contact with a physician or nurse is not practicable under the circumstances, an MICT may act pursuant to protocols. It was not intended that these tasks be performed by MICTs in non-emergency settings. However, if a physician delegates performance of professional services to an MICT, the MICT may function pursuant to the physician's order. Cited herein: K.S.A. 65-2872; K.S.A. 65-4306 (Ensley 1980); K.S.A. 1989 Supp. 65-6112, 65-6119.

* * *

Dear Ms. Johnson:

You request our opinion regarding the scope of practice of mobile intensive care technicians (MICTs). Specifically you ask to what extent an MICT may, in non-emergency situations, perform the activities listed in K.S.A. 1989 Supp. 65-6119(d).

The statute states in relevant part:

"Notwithstanding any other provision of law, mobile intensive care technicians may perform any of the following:

. . . .

"(d) When voice contact or a telemetered electrocardiogram is monitored by a person licensed to practice medicine and surgery or a registered professional nurse where authorized by a person licensed to practice medicine and surgery, and direct communication is maintained, and upon order of such person or such nurse do any of the following: "(1) Perform veni-puncture for the purpose of blood sampling collection and initiation and maintenance of intravenous infusion of saline solutions, dextrose and water solutions or ringers lactate IV solutions.

"(2) Perform gastric suction by intubation.

"(3) Perform endotracheal intubation.

"(4) Administer parenteral injections [of certain classes of drugs]. . . .

"(5) Administer such other medications or procedures as may be deemed necessary by such an ordering person.

"(e) Perform, during an emergency, those activities specified in subsection (d) before contacting the person licensed to practice medicine and surgery or authorized registered professional nurse when specifically authorized to perform such activities by written protocols approved by the local component medical society." K.S.A. 1989 Supp. 65-6119 (emphasis added).

In Attorney General Opinion No. 81-35 we concluded that there were three conditions which must be satisfied before an MICT

may perform the acts listed in K.S.A. 65-4306 (Ensley 1980), which was the prior version of K.S.A. 1989 Supp. 65-6119(d)). We stated,

"1. There must be 'voice contact or a telemetered electrocardiogram' monitored by a physician or authorized registered professional nurse;

"2. Direct communication must be maintained with the physician or nurse; and

"3. The physician or nurse must order the MICT to perform the act."

Following that opinion, the statute was amended by L. 1981, ch. 254, § 2, adding subsection (e) which is quoted above. The additional language relates to emergency situations making prior voice contact impracticable. Our 1981 opinion was therefore modified by the amendment.

Reference to emergencies in subsection (e) does not mean that the tasks enumerated in subsection (d) may be performed in non-emergency situations. The title of the act regulating MICTs is valid indicia of legislative intent for construing the scope of practice. See Arredondo v. Duckwall Stores, Inc., 227 Kan. 842, 846 (1980) (title of an act supplied by legislature is not part of statute, but should not be ignored). The title of the bill is, "An act concerning the regulation of emergency medical services . . . providing for the regulation of persons engaged in emergency medical service and ambulance service activities. . . ." L. 1988, ch. 261. Emergency medical services are defined in the act as services which provide "effective and coordinated delivery of such emergency care as may be required by an emergency, including . . . the performance of authorized emergency care by . . . a mobile intensive care technician." K.S.A. 1989 Supp. 65-6112(g). The term "emergency" has been construed by our courts to mean "an unforeseen combination of circumstances which calls for immediate action." Trinity Universal Ins. Co. v. Farmers Cooperative Exchange of Morland, 171 Kan. 501, 504 (1951). The legislature is presumed to have had knowledge of this construction when enacting the act regulating MICTs. See Bell v. City of Topeka, 220 Kan. 405, 417, appeal after remand, 224 Kan. 147 (1978).

We believe that under authority of their license, MICTs may perform the functions listed in K.S.A. 1989 Supp. 65-6119(d) in emergency situations only.

The legislature did not intend MICTs to practice in settings

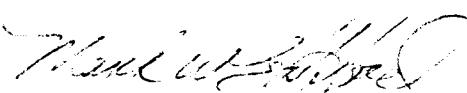
in which those tasks are foreseeable as part of a patient's plan of care.

Our opinion does not overlook situations in which a physician may delegate to an unlicensed person the performance of professional services. K.S.A. 65-2872(g). Medical doctors may use technicians for assistance in practicing the healing arts. State ex rel. v. Doolin & Shaw, 209 Kan. 244, 262 (1972). When a physician delegates such an act to a person who is also licensed as an MICT, the person acts by virtue of the healing arts act, not by virtue of the MICT licensure act. The act under which MICTs are licensed does not limit the practice of delegation by a physician.

In conclusion, it is our opinion mobile intensive care technicians are authorized by statute to perform certain tasks during emergencies when in contact with a physician or nurse. If prior voice contact with a physician or nurse is not practicable under the circumstances, an MICT may act pursuant to protocols. It was not intended that these tasks be performed by MICTs in non-emergency situations. However, if a physician delegates performance of professional services to an MICT, the MICT may function pursuant to the physician's order.

Very truly yours,


ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS


Mark W. Stafford
Assistant Attorney General

RTS:JLM:MWS:bas