

ENROLLED SENATE
BILL NO. 575

By: Robinson and Littlefield of
the Senate

and

Settle, Collins and
Ostrander of the House

An Act relating to public health and safety; amending 63 O.S. 1991, Sections 1-2515, as amended by Section 4, Chapter 194, O.S.L. 1995, 485.3, as last amended by Section 2, Chapter 262, O.S.L. 1995, 2210 and 2210.1 (63 O.S. Supp. 1996, Sections 1-2515 and 485.3), which relate to Emergency Medical Services Regions, the J.D. McCarty Center for Children with Developmental Disabilities, and the Uniform Anatomical Gift Act; modifying statutory language to include Ambulance Service districts; expanding authority of the Oklahoma Cerebral Palsy Commission; stating requirements for operation of eye banks; requiring application for certain permit and a filing fee; providing for public notice to be published and submission of written comments; establishing certain time limit and expiration date; providing for appeal of certain issuance or denial; requiring annual report and specifying contents of report; modifying certain conditions for removal or release of certain corneal eye tissue; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-2515, as amended by Section 4, Chapter 194, O.S.L. 1995 (63 O.S. Supp. 1996, Section 1-2515), is amended to read as follows:

Section 1-2515. A. Notwithstanding any other provision of this title, either Emergency Medical Services (EMS) Regions, Ambulance Service districts or municipalities are hereby authorized to regulate and control, pursuant to duly enacted ordinance or regulation, Ambulance Service transports originating within the jurisdiction of such EMS Regions, Ambulance Service districts or municipalities.

B. Any ordinance or regulation adopted pursuant to subsection A of this section shall meet and may exceed, but shall not be in contravention of, the standards promulgated by the State Board for Ambulance Service transports.

C. Any ordinance or regulation adopted by an EMS Region, Ambulance Service district or a municipality may establish a sole-provider system for Ambulance Service transports; provided, however, that any such designated or contracted sole-provider which is not an EMS Region, Ambulance Service district, municipality, or other public entity shall be selected by competitive bidding. A contract entered into pursuant to such bidding shall be with the lowest and best bidder and may be for an initial term of such duration as deemed operationally and fiscally prudent by the contracting agency. The term of such sole-provider contract shall be made public at the time bids are solicited, which solicitation shall be not less than sixty (60) days prior to the contract start date.

D. Any EMS Region, Ambulance Service district or municipality may establish a sole-provider system for Ambulance Service transports and may allow additional geographic or political subdivisions to join such a system at any time. Whenever such a geographic or political subdivision joins such a sole-provider system, competitive bidding shall not be required and provision for servicing the new jurisdiction may be accomplished by amending the existing sole-provider contract. Furthermore, in the event the expansion of the service area of the EMS Region, Ambulance Service district or the municipality is substantial (in the sole opinion of the governing body of the EMS Region, Ambulance Service district or municipality), the existing sole-provider contract may be extended for a period sufficient to allow reasonable opportunity for recovery of capital costs of expansion, as determined by the contracting agency.

E. The provisions of this section shall not be construed or applied to limit the operation of any emergency medical service district established and operating pursuant to Section 9C of Article 10 of the Oklahoma Constitution; provided, however, that, upon invitation and approval of a majority of the voters of the district, any such district is hereby authorized to join by appropriate agreement any system established by an EMS Region, Ambulance Service district or a municipality pursuant to the provisions of this section.

F. The following types of patient transports shall be exempt from regulation by EMS Regions, Ambulance Service districts or municipalities:

1. Any ambulance owned or operated by, or under contract to perform ambulance transport services for, the Federal or State government, or any agency thereof;

2. Any ambulance owned and operated by a hospital and in use to transport a patient of the owner-hospital, which patient has been admitted to and not been discharged from the owner-hospital, to or from another hospital or medical care facility at which the patient receives a diagnostic or therapeutic procedure not available at the owner-hospital;

3. Any ambulance engaged in a routine transport call to transport a patient from a hospital, nursing home, or dialysis center located within an EMS Region, Ambulance Service district or municipality to any location outside the EMS Region, Ambulance Service district or municipality;

4. Any ambulance engaged in the transport of a patient from a location outside an EMS Region, Ambulance Service district or municipality to a location inside an EMS Region, Ambulance Service district or municipality; or

5. Any ambulance engaged in the interstate transport of a patient.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 485.3, as last amended by Section 2, Chapter 262, O.S.L. 1995 (63 O.S. Supp. 1996, Section 485.3) is amended to read as follows:

Section 485.3 A. The Oklahoma Cerebral Palsy Commission is hereby authorized and empowered to:

1. Establish and maintain the J.D. McCarty Center for Children with Developmental Disabilities, to provide care, maintenance, training, treatment, habilitation and rehabilitation of persons afflicted with cerebral palsy and other developmental disabilities within such institute;

2. Set fees and charges for patient services;

3. Provide care, maintenance, training, treatment and rehabilitation services to children not afflicted with cerebral palsy or developmental disabilities but who may benefit from the services available from the J.D. McCarty Center for Children with Developmental Disabilities, as determined to be practicable by the Oklahoma Cerebral Palsy Commission;

4. Provide services to any adults who may benefit from services available from the J.D. McCarty Center for Children with Developmental Disabilities, as determined to be practicable by the Oklahoma Cerebral Palsy Commission; provided, that services to adults shall not diminish any services available to children;

5. Enter into contracts for the purchase of real estate or other property and to buy or sell real estate, personal property and equipment necessary or incidental to the carrying out of the provisions of Section 485.1 et seq. of this title; and

6. Enter into contracts with the Commission for Human Services and with other agencies of the state and of the counties in furtherance of the provisions of this act; provided, the Oklahoma Cerebral Palsy Commission shall receive from the Commission for Human Services payments aggregating a minimum of One Hundred

Thousand Dollars (\$100,000.00) annually from funds set aside in the Children with Special Health Care Needs Program; and provided further, the Oklahoma Cerebral Palsy Commission may negotiate with the Commission for Human Services or its successors for additional payments above One Hundred Thousand Dollars (\$100,000.00) from such funds.

B. The Commission shall be charged with the duties of management and control of the J.D. McCarty Center for Children with Developmental Disabilities and shall:

1. Have power to sue or be sued in its own name; and

2. Obtain and pay for an annual audit of the books and records of the J.D. McCarty Center for Children with Developmental Disabilities, conducted by the Office of the State Auditor and Inspector or by a qualified, independent auditor in conformance with standards and guidelines established by the State Auditor and Inspector.

C. The Attorney General shall furnish the Commission with legal representation. The Commission shall not contract for private legal counsel except for extraordinary situations other than normal day-to-day situations, and when approved by the Attorney General.

SECTION 3. AMENDATORY 63 O.S. 1991, Section 2210, is amended to read as follows:

Section 2210. A. 1. With respect to a gift of an eye as provided for in this chapter, a licensed embalmer, as defined by the Funeral Services Licensing Act, Section 396 et seq. of Title 59 of the Oklahoma Statutes, or other persons who have successfully completed a course in eye enucleation in the State of Oklahoma or elsewhere and have received a certificate of competence from the Eye Bank Association of America, may enucleate eyes for such gift after proper certification of death by a physician and compliance with the extent of such gift as required by the Uniform Anatomical Gift Act, Section 2201 et seq. of this title.

2. No such properly certified embalmer or other person acting in accordance with the terms of this chapter shall have any liability, civil or criminal, for such eye enucleation.

B. No eye bank shall operate in Oklahoma unless the eye bank:

1. Within one (1) year after beginning operation, is accredited by the Eye Bank Association of America or other nationally recognized accrediting association for eye banks;

2. Employs an eye bank technician certified by the Eye Bank Association of America or other nationally recognized accrediting or certifying association for eye banks;

3. Has as its medical director a board-certified ophthalmic surgeon licensed to practice in this state; and

4. Gives priority to the needs of patients being treated in Oklahoma.

C. Before developing a new eye bank, the person proposing to operate the eye bank shall apply to the State Commissioner of Health for a permit. The permit application shall be in such form as the Commissioner shall prescribe and shall include a demonstration of

the eye bank's probable impact on existing eye banks serving the area where the new eye bank is to be located. The permit application shall be accompanied by a filing fee equal to one quarter of one percent (.25%) of the capital cost of the proposed eye bank, with a minimum fee of Five Hundred Dollars (\$500.00).

D. Upon receipt of a completed permit application, the Commissioner shall cause public notice to be published in a newspaper of general circulation in the area where the eye bank is to be located and in a newspaper of general circulation in the area where the application is available for inspection. Any person may submit written comments regarding the proposed eye bank to the Commissioner.

E. The Commissioner shall issue or deny the permit within seventy-five (75) days after publication of the notice. A permit shall expire thirty-six (36) months from the date of issue. If construction is not completed on or before the permit's expiration date, the permit shall be null and void.

F. Any issuance or denial of a permit may be appealed under Article II of the Administrative Procedures Act, Section 308a of Title 75 of the Oklahoma Statutes.

G. Each eye bank operating in this state shall report annually to the Commissioner on a form prescribed by the Commissioner. The form shall include information on the following:

1. The accreditation status of the eye bank;
2. The certification status of the eye bank technician;
3. The identity and qualifications of the medical director;
4. The numbers and geographic origins of donor corneas and whole eyes; and
5. The numbers and geographic destinations of corneas and other parts of eyes.

SECTION 4. AMENDATORY 63 O.S. 1991, Section 2210.1, is amended to read as follows:

Section 2210.1 A. Notwithstanding any other provision of law, the Chief Medical Examiner, any County Medical Examiner, or any other person authorized by law to conduct an autopsy may, in the course of an autopsy, remove and release or authorize the removal or release of corneal eye tissue from a body within the custody of such person, if all the following conditions are met:

1. The autopsy is authorized by law;
2. The person performing the autopsy has made a reasonable attempt to contact the next of kin and has no knowledge of any objection to the removal or release of corneal tissue having been made by the decedent, or the next of kin of the decedent; provided, as used in this paragraph, "reasonable attempt" means reaching or attempting to reach the next of kin by telephone and documenting such in the records of the autopsy;
3. The removal or release of such tissue will not interfere with the autopsy;

4. The tissue will be removed by a person qualified under, and as specified by, Section 2210 of Title 63 of the Oklahoma Statutes; and

5. The tissue will be released to a public or nonprofit facility for transplant, therapeutic or scientific purposes.

B. Under such circumstances, neither the person removing or releasing the corneal tissue, nor any hospital, medical center, tissue bank, storage facility, or person acting upon the request, order or direction of such person in the removal or release of the corneal tissue pursuant to this section, shall incur civil liability for such removal or release in an action brought by any person who did not object prior to the removal or release of the corneal tissue, or be subject to criminal prosecution for the removal or release of such corneal tissue pursuant to the provisions of this section.

SECTION 5. This act shall become effective July 1, 1997.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.