

ENROLLED SENATE
BILL NO. 557

By: Coffee and Laughlin of the
Senate

and

Hiatt of the House

An Act relating to agriculture; requiring notification to the State Board of Agriculture of suspected animal diseases; requiring certain information; amending Sections 15, 16, 17, 18 and 19, Chapter 173, O.S.L. 2002 (2 O.S. Supp. 2002, Sections 6-401, 6-402, 6-403, 6-404 and 6-405), which relate to the Animal Disease Outbreak Temporary Emergency Act; providing for public welfare; adding statutory reference; clarifying language; authorizing expert medical testimony in certain instances; requiring certain person to submit certain information in writing; defining terms; providing vaccination programs for first responders who may be exposed to infectious diseases deployed to disaster locations; making program voluntary; providing exceptions; providing for priority; providing for notification; authorizing certain contracts making section effective upon receipt of certain funds; amending 59 O.S. 2001, Section 492, which relates to designation of physicians; modifying definition of practice of medicine and surgery; providing for codification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-400.1 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Every veterinarian shall report animals having or suspected of having any diseases that may be potential causes of a public health emergency.

B. The report shall be made electronically or in writing within twenty-four (24) hours to the State Board of Agriculture and shall include as much of the following information as is available:

1. The specific illness or health condition that is the subject of the report;

2. The location information of the animal;
3. The name and address of any known owner; and
4. The name and address of the reporting individual.

SECTION 2. AMENDATORY Section 15, Chapter 173, O.S.L. 2002 (2 O.S. Supp. 2002, Section 6-401), is amended to read as follows:

Section 6-401. A. ~~1.~~ If the State Board of Agriculture determines that a confirmed case of an animal disease in this state presents a substantial and imminent threat to the state's domestic animal population and/or to protect the public welfare, the Board shall certify the case to the Governor.

~~2.~~ B. 1. After receiving certification from the Board, the Governor may declare an emergency pursuant to this section for purposes of allowing the Board to establish quarantine zones of control to protect the health of domestic animals and the public welfare from disease.

2. The Governor may declare an emergency pursuant to this section without declaring an emergency under the Oklahoma Civil Defense and Emergency Resources Management Act of 1967.

3. A declaration pursuant to this section:

- a. may specify that it applies to all or certain units of the state or local government,
- b. must specify the time period for which it applies, and
- c. must be filed with the Secretary of State.

4. The provisions of this subsection are in addition to and do not limit authority granted to the Governor or local government officials by other provisions of law.

~~B.~~ C. 1. The Board may meet by electronic means without violating state open meeting laws for the purpose of declaring that a highly suspicious case of a disease in this state presents a substantial and imminent threat to the state's domestic animal population and/or to protect the public welfare.

2. If the Board meets by electronic means for this purpose, it shall comply with the emergency meeting notice provisions of Section 311 of Title 25 of the Oklahoma Statutes and, to the fullest extent possible, provide public and media access to the meeting.

SECTION 3. AMENDATORY Section 16, Chapter 173, O.S.L. 2002 (2 O.S. Supp. 2002, Section 6-402), is amended to read as follows:

Section 6-402. A. Upon an emergency declaration by the Governor pursuant to the Animal Disease Outbreak Temporary Emergency Act, the State Veterinarian may establish quarantine zones of

control in any area where a specific animal determined to be infected or is likely to be infected with the disease be examined by a veterinarian authorized by the State Board of Agriculture or the State Veterinarian. This determination shall be based on an actual veterinary examination or laboratory testing.

B. Quarantine zones of control shall be the smallest size practicable to prevent the spread of the disease and must exist for the shortest duration consistent with effective disease control. A quarantine zone of control shall not extend beyond a radius of three (3) miles from an animal determined to be infected or is likely to be infected with the disease, unless the Board orders that control of a specific disease requires a larger quarantine zone of control based upon epidemiological evidence.

SECTION 4. AMENDATORY Section 17, Chapter 173, O.S.L. 2002 (2 O.S. Supp. 2002, Section 6-403), is amended to read as follows:

Section 6-403. A. 1. The State Board of Agriculture may issue orders restricting the movement of persons, livestock, machinery, and personal property out of quarantine zones. The President of the Board, the State Veterinarian, or any licensed veterinarian designated by the Board may issue the orders.

2. Any such order shall be issued upon a determination that reasonable cause exists to believe that the movement of persons or personal property out of a quarantine zone will reasonably transport a dangerous, infectious, or communicable disease outside of the quarantine zone.

B. 1. An order restricting the movement of persons, livestock, machinery, and personal property out of quarantine zones:

~~1. Shall~~

a. shall be served upon any person subject to the order~~†,~~

~~2. Shall~~

b. shall be limited to the greatest extent possible consistent with the paramount disease control objectives as determined by the Board~~†,~~

~~3. May~~

c. may be served on any day at any time~~†,~~ and

~~4. Must~~

d. must include a notice of the person's rights pursuant to this section, including, but not limited to, the ability of the person to enter into an agreement to abide by disease control measures under subsection C of this section and the right to request a court hearing under ~~paragraph~~ subsection D of this section.

2. When an order restricting the movement of persons has been issued, the needs of those persons restricted pursuant to the order shall be addressed in a systematic and competent fashion including, but not limited to, providing adequate food, clothing, shelter, means of communication with persons not so restricted, medication and competent medical care.

C. No person may be restricted by an order, issued pursuant to the Animal Disease Outbreak Temporary Emergency Act for longer than seventy-two (72) hours, if the person agrees to abide by the disease control measures established by the Board. Such person shall sign an acknowledgment form prepared by the Board evidencing the person's agreement to abide by the disease control measures established by the Board.

D. Any person whose movements are restricted by an order pursuant to the Animal Disease Outbreak Temporary Emergency Act may seek a district court hearing on the order at any time after ~~it~~ the order is served on the person. The hearing shall be heard as soon as possible regardless of the time of day and any inconvenience to the court. The hearing may be held by electronic means. The subject of the order may:

1. Contest imposition of the order on grounds that it is an abuse of the Board's discretion pursuant to the Animal Disease Outbreak Temporary Emergency Act; or

2. Seek a variance from the order to allow movement of a person inconsistent with the order, upon a showing that the person would otherwise suffer irreparable harm.

SECTION 5. AMENDATORY Section 18, Chapter 173, O.S.L. 2002 (2 O.S. Supp. 2002, Section 6-404), is amended to read as follows:

Section 6-404. A. 1. If the State Board of Agriculture determines that a person has not or is not reasonably likely to abide by the disease control measures established by the Board, the Board may request a court hearing to determine if the emergency temporary restrictions should continue.

2. The court shall schedule the hearing as expeditiously as possible.

3. When the Board requests a court hearing under this section, restrictions pursuant to Section ~~17~~ 6-403 of this ~~act~~ title shall continue to apply to the person until the court has held the temporary emergency restrictions hearing and issues an order either continuing the emergency disease control measures established by the Board or removing the emergency disease control measures.

B. If the Board requests a court hearing pursuant to this section, notice of the hearing must be served upon any person restricted at least twenty-four (24) hours before the hearing.

C. The notice must contain the following information:

1. The time, date, and place of the hearing;
2. The grounds and underlying facts upon which continued restrictions are sought;
3. The person's right to appear by electronic means at the hearing and the right to have a representative appear in person at the hearing;
4. The person's right to present and cross-examine witnesses including, but not limited to, the right to present expert medical testimony; and
5. The person's right to counsel, including the right, if the person is indigent, to representation by counsel designated by the court or county of venue.

D. 1. The court may order the continued restriction on the movement of the person if it finds, by a preponderance of the evidence, that travel outside of the quarantine zone by the person would pose an imminent threat of transporting a dangerous, infectious, or communicable disease outside of the boundaries of the quarantine zone.

2. If the person agrees to sign and comply with the acknowledgment form referred to in Section ~~17~~ 6-403 of this ~~act~~ title, the temporary restrictions shall not continue longer than thirty (30) days.

3. If the person refuses to sign and comply with the acknowledgment form, the temporary restrictions shall continue for a longer time as specified by the court. Refusal by the person to sign and comply with the acknowledgment form constitutes a knowing violation of the Animal Disease Outbreak Temporary Emergency Act.

SECTION 6. AMENDATORY Section 19, Chapter 173, O.S.L. 2002 (2 O.S. Supp. 2002, Section 6-405), is amended to read as follows:

Section 6-405. A. 1. When it is determined by the State Board of Agriculture that it is necessary to eradicate any dangerous, infectious or communicable disease among domestic animals in the state, the presence of which constitutes an emergency declared pursuant to the Animal Disease Outbreak Temporary Emergency Act or declared by the United States Department of Agriculture, the Board may take reasonable and necessary steps to suppress and eradicate the disease.

2. The Board may cooperate with the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture, federally recognized Indian tribes, state or local government agencies, or any other private or public entity in the suppression and eradication of the disease.

B. When an emergency has been declared, the Board or the State Veterinarian may order:

1. Animals destroyed which are infected with the disease, exposed to the disease, or are highly susceptible to exposure to the disease because of proximity to diseased animals affected by the disease;

2. Personal property to be destroyed in order to remove the infection;

3. The cleaning and disinfection of any premises, exposed to the disease, or are highly susceptible to exposure to the disease because of proximity to diseased animals affected by the disease; and

4. Any act and incur any other expense reasonably necessary to destroy or suppress the disease.

C. The Governor, at the request of the Board, may take any other emergency action necessary to ensure the health of the public and the state livestock industry.

D. 1. The Board may:

- a. accept on behalf of the state, the regulations adopted by the Animal and Plant Health Inspection Service of the United States Department of Agriculture pertaining to the disease authorized under an act of Congress, or the portion of the regulations deemed necessary, suitable, or applicable, and
- b. cooperate with the Animal and Plant Health Inspection Service of the United States Department of Agriculture, in the enforcement of such regulations.

2. Alternatively, the Board may follow the procedure only as to quarantine, inspection, condemnation, appraisal, compensation, destruction, burial of animals, disinfection, or other acts the Board considers reasonably necessary for the destruction or suppression of the disease as adopted by the Board.

E. 1. For the purpose of determining compensation as provided by subsection F of this section, appraisals of animals or personal property destroyed pursuant to the Animal Disease Outbreak Temporary Emergency Act must be made by a Board-approved appraiser or by an appraisal committee consisting of an appraiser representing the Board, an appraiser representing the Animal and Plant Health Inspection Service of the United States Department of Agriculture, and an appraiser representing the owner.

2. When, in the judgment of the Board or the State Veterinarian, the animals to be killed or personal property to be destroyed poses a disease threat, appraisals may be conducted after the animals are killed based on documents, testimony, or other relevant evidence.

~~2.~~ 3. Appraisals must be:

- a. in writing and signed by the appraisers or appraisal committee, and
- b. made at the fair market value of all animals and personal property appraised, unless otherwise provided by applicable federal law or regulation when compensation is paid by federal funds.

F. Upon destruction of animals or personal property, burial or other disposition of the carcasses of the animals, and the completion of the cleaning and disinfection of the premises in accordance with the provisions of the Animal Disease Outbreak Temporary Emergency Act, the Board or its authorized agent shall certify the appraisal to the Director of State Finance. If funds are available for this purpose, the Director shall then file a claim with the State Treasurer for a warrant in the amount payable to the owner, excluding any compensation received and submitted by the owner in writing from other sources.

G. A person who believes that the Board's certified appraisal is not sufficient may apply for a temporary restraining order or injunctive relief from the appropriate district court.

H. 1. No person or other legal entity may initiate any proceeding to collect a debt from the owner relating to animals or personal property destroyed pursuant to this section, until the owner has received compensation under ~~paragraph~~ subsection F of this section.

2. If a person or other legal entity refuses to comply with this subsection after being informed that the owner qualifies for relief pursuant to the Animal Disease Outbreak Temporary Emergency Act, the owner may apply to the district court in the county in which the owner resides for a court order directing the person or other legal entity to comply with this subsection and to reimburse the owner for reasonable attorney fees incurred in obtaining the court order.

3. The provisions of this subsection shall not affect the validity of a mortgage foreclosure, contract for deed cancellation or other proceeding involving the title to real property, unless the owner records in the office of the county clerk where the real property is located, prior to completion of the proceeding to collect the debt, a certified copy of the court order determining that the owner qualifies for relief pursuant to the Animal Disease Outbreak Temporary Emergency Act, and the legal description of the real property.

- 4. a. For purposes of proceedings involving title to real property pursuant to paragraph 3 of this subsection, the court order must provide that the order expires ninety (90) days after the date of application for the court order, unless the court extends the court order prior to that date for good cause shown.
- b. A certified copy of any extension of the court order must be filed in the office of the county clerk in

order to affect the validity of a proceeding affecting the title to real property.

5. For purposes of this subsection:

- a. "completion of a proceeding to collect a debt" means, in the case of a mortgage foreclosure or of a foreclosure of any other lien on real property, the filing or recording of the sheriff's certificate of sale, and, in the case of a contract for deed cancellation, the end of the cancellation period provided in that law, and
- b. "proceeding to collect a debt" includes foreclosure, repossession, garnishment, levy, contract for deed cancellation, an action to obtain a court judgment, a proceeding to collect real estate taxes or special assessments, eviction, and any other in-court and out-of-court proceedings to collect a debt. The term shall not include sending bills or other routine communications to the owner.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 682.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Department" means the State Department of Health;
2. "Director" means the State Commissioner of Health;
3. "Disaster locations" means any geographical location where a bioterrorism attack, terrorist attack, catastrophic or natural disaster, confirmed case of an animal disease, or emergency occurs; and
4. "First responders" means state and local law enforcement personnel, fire department personnel and medical personnel, and the State Veterinarian and members of any humane rescue animal team, who will be deployed to bioterrorism attacks, terrorist attacks, catastrophic or natural disasters and emergencies.

B. 1. The State Department of Health shall offer a vaccination program for first responders who may be exposed to infectious diseases when deployed to disaster locations.

2. The vaccinations shall include, but are not limited to, hepatitis B vaccination, diphtheria-tetanus vaccination, influenza vaccination and other vaccinations when recommended by the United States Public Health Service and in accordance with Federal Emergency Management Directors Policy. Immune globulin will be made available when necessary.

C. Participation in the vaccination program will be voluntary by the first responders, except for first responders who are classified as having "occupational exposure" to bloodborne pathogens

as defined by the Occupational Safety and Health Administration Standard contained at 29 CFR 1910.1030 who shall be required to take the designated vaccinations as otherwise required by law.

D. A first responder shall be exempt from vaccinations when a written statement from a licensed physician is presented indicating that a vaccine is medically contraindicated for that person or the first responder signs a written statement that the administration of a vaccination conflicts with the first responder's religious tenets.

E. In the event of a vaccine shortage the Director, in consultation with the Governor and the Centers for Disease Control and Prevention, shall give priority for vaccination to first responders.

F. The Department shall notify first responders of the availability of the vaccination program and shall provide educational materials on ways to prevent exposure to infectious diseases.

G. The Department may contract with county and local health departments, not-for-profit home health care agencies, hospitals and physicians to administer a vaccination program for first responders.

H. This section shall be effective upon receipt of federal funding and/or federal grants for administering a first responders vaccination program. Upon receipt of such funding, the Department shall make available the vaccines to first responders as provided in this section.

SECTION 8. AMENDATORY 59 O.S. 2001, Section 492, is amended to read as follows:

Section 492. A. Every person shall be regarded as practicing allopathic medicine within the meaning and provisions of this act, who shall append to his or her name the letters "M.D.", "Physician" or any other title, letters or designation which represent that such person is a physician, or who shall for a fee or any form of compensation diagnose and/or treat disease, injury or deformity of persons in this state by any allopathic legend drugs, surgery, manual, or mechanical treatment unless otherwise authorized by law.

B. A hospital or related institution as such terms are defined in Section 1-701 of Title 63 of the Oklahoma Statutes, which has the principal purpose or function of providing hospital or medical care, including but not limited to any corporation, association, trust, or other organization organized and operated for such purpose, may employ one or more persons who are duly licensed to practice medicine in this state without being regarded as itself practicing medicine within the meaning and provisions of this section. The employment by the hospital or related institution of any person who is duly licensed to practice medicine in this state shall not, in and of itself, be considered as an act of unprofessional conduct by the person so employed. Nothing provided herein shall eliminate, limit, or restrict the liability for any act or failure to act of any hospital, any hospital's employees, or persons duly licensed to practice medicine.

C. The definition of the practice of medicine and surgery shall include, but is not limited to:

1. Advertising, holding out to the public, or representing in any manner that one is authorized to practice medicine and surgery in this state;

2. Any offer or attempt to prescribe, order, give, or administer any drug or medicine and surgery for the use of any other person, except as otherwise authorized by law;

3. a. Any offer or attempt, except as otherwise authorized by law, to prevent, diagnose, correct, or treat in any manner or by any means, methods, devices, or instrumentalities except for manual manipulation any disease, illness, pain, wound, fracture, infirmity, defect, or abnormal physical or mental condition of any person, including the management of pregnancy and parturition, except as otherwise authorized by law.

b. Except as provided in subsection D of this section, performance by a person outside of this state, through an ongoing regular arrangement, of diagnostic or treatment services through electronic communications for any patient whose condition is being diagnosed or treated within this state. A person who performs any of the functions covered by this subparagraph submits himself or herself to the jurisdiction of the courts of this state for the purposes of any cause of action resulting from the functions performed.

c. Nothing in the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act shall be construed to affect or give jurisdiction to the Board over any person other than medical doctors or persons holding themselves out as medical doctors;

4. Any offer or attempt to perform any surgical operation upon any person, except as otherwise authorized by law; ~~and~~

5. Expert witness testimony; and

6. The use of the title Doctor of Medicine, Physician, Surgeon, Physician and Surgeon, Dr., M.D. or any combination thereof in the conduct of any occupation or profession pertaining to the prevention, diagnosis, or treatment of human disease or condition unless, where appropriate, such a designation additionally contains the description of another branch of the healing arts for which one holds a valid license in this state.

D. The practice of medicine and surgery, as defined in this section, shall not include:

1. A student while engaged in training in a medical school approved by the Board or while engaged in graduate medical training under the supervision of the medical staff of a hospital or other

health care facility approved by the state medical board for such training, except that a student engaged in graduate medical training shall hold a license issued by the Board for such training;

2. Any person who provides medical treatment in cases of emergency where no fee or other consideration is contemplated, charged or received;

3. A commissioned medical officer of the armed forces of the United States or medical officer of the United States Public Health Service of the Veterans Administration of the United States in the discharge of official duties and/or within federally controlled facilities; and provided that such person shall be fully licensed to practice medicine and surgery in one or more jurisdictions of the United States; provided further that such person who holds a medical license in this state shall be subject to the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act;

4. Any person licensed under any other act when properly practicing in the healing art for which that person is duly licensed;

5. The practice of those who endeavor to prevent or cure disease or suffering by spiritual means or prayer;

6. Any person administering a domestic or family remedy to a member of such person's own family;

7. Any person licensed to practice medicine and surgery in another state or territory of the United States who renders emergency medical treatment or briefly provides critical medical service at the specific lawful direction of a medical institution or federal agency that assumes full responsibility for that treatment or service and is approved by the Board;

8. Any person who is licensed to practice medicine and surgery in another state or territory of the United States whose sole purpose and activity is limited to brief actual consultation with a specific physician who is licensed to practice medicine and surgery by the Board, other than a person with a special or restricted license; or

9. The practice of any other person as licensed by appropriate agencies of this state, provided that such duties are consistent with the accepted standards of the person's profession and the person does not represent himself or herself as a Doctor of Medicine, Physician, Surgeon, Physician and Surgeon, Dr., M.D., or any combination thereof.

E. Nothing in the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act shall prohibit:

1. The service rendered by a physician's unlicensed trained assistant, if such service is rendered under the supervision and control of a licensed physician pursuant to Board rules, provided such rules are not in conflict with the provisions of any other

healing arts licensure act or rules promulgated pursuant to such act; or

2. The service of any other person duly licensed or certified by the state to practice the healing arts.

F. Nothing in the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act shall prohibit services rendered by any person not licensed by the Board and practicing any nonallopathic healing practice.

SECTION 9. 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.

Passed the Senate the 30th day of April, 2003.

Presiding Officer of the Senate

Passed the House of Representatives the 21st day of April, 2003.

Presiding Officer of the House
of Representatives

