

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 HOUSE BILL 1615

By: Roan

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5
6 AS INTRODUCED

7 An Act relating to public health and safety; creating
8 the Emergency Medical Systems Revolving Fund;
9 providing for distribution; providing for the
10 administration of medical emergency response centers;
11 providing for the development of certain training
12 program; providing for tuition reimbursement for
13 certain persons; providing for development of
14 comprehensive training program for certain persons;
15 adding certain person as certain board member;
16 providing for certain benefits for certain persons;
17 amending 51 O.S. 2001, Section 152, as last amended
18 by Section 19, Chapter 368, O.S.L. 2004 (51 O.S.
19 Supp. 2006, Section 152), which relates to The
20 Governmental Tort Claims Act; modifying definition;
21 amending 63 O.S. 2001, 1-2504, which relates to the
22 utilization of emergency medical personnel in
23 hospital or health care facilities; providing for
24 certain protections; providing for codification; and
providing an effective date.

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 1-2524 of Title 63, unless there
is created a duplication in numbering, reads as follows:

1 A. There is hereby created in the State Treasury a revolving
2 fund to be designated the "Emergency Medical Systems Revolving
3 Fund". The fund shall be a continuing fund, not subject to fiscal
4 year limitations, and shall consist of all monies, fees, and
5 revenues collected, authorized, or received from any source by the
6 State Department of Health or any division, officer, or employee of
7 the State Department of Health pursuant to any law or agreement.

8 B. All monies accruing to the credit of the Emergency Medical
9 Systems Revolving Fund are hereby appropriated and may be budgeted
10 and expended by the State Department of Health for:

11 1. Assessment activities funded for One Hundred Thousand
12 Dollars (\$100,000.00) per year;

13 2. Development grants funded for Six Hundred Thousand Dollars
14 (\$600,000.00) per year; and

15 3. Capital and equipment improvement grants funded for Five
16 Hundred Thousand Dollars (\$500,000.00) per year, including One
17 Hundred Thousand Dollars (\$100,000.00) annually earmarked for radio
18 equipment upgrades consistent with the state emergency medical
19 system communications plan.

20 C. Expenditures from the Emergency Medical Systems Revolving
21 Fund shall be made by the majority approval of the State Board of
22 Health, or the Commissioner of Health in the absence of the Board.

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1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-2524.1 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 A. The Commissioner of Health shall:

5 1. Administer medical emergency response centers to coordinate
6 medical responses in disasters and provide physician medical
7 direction and certified emergency medical dispatch services to rural
8 agencies, and add the designated medical director of each medical
9 emergency response center to the medical direction subcommittee of
10 Oklahoma Emergency Response Systems Development Advisory Council;

11 2. Establish a transition plan and request appropriations to
12 the Emergency Medical Systems Revolving Fund to ensure the
13 operations of the medical emergency response centers in the event
14 federal funding is withdrawn, not to exceed Three Hundred Seventy-
15 five Thousand Dollars (\$375,000.00) annually; and

16 3. Establish a transition plan and request appropriations to
17 the Emergency Medical Systems Revolving Fund to ensure the
18 operations of the regional emergency medical systems disaster
19 response teams currently being developed under the Health Resources
20 and Services Administration-funded "EMS Package Plan" in the event
21 federal funding is withdrawn, not to exceed One Million Six Hundred
22 Thousand Dollars (\$1,600,000.00).

23 B. The Oklahoma Department of Career and Technology Education
24 shall:

1 1. Develop and maintain a comprehensive statewide emergency
2 medical technician training program meeting national accreditation
3 standards and ensuring statewide access through distance learning
4 resources. Funding shall not exceed Six Hundred Seventy Thousand
5 Dollars (\$670,000.00) in the first year and Two Hundred Fifty
6 Thousand Dollars (\$250,000.00) each year thereafter;

7 2. Establish a tuition fund for emergency medical technicians
8 providing tuition reimbursement of not more than Three Thousand
9 Dollars (\$3,000.00) for emergency medical technicians who complete
10 advanced training and work at least one thousand (1,000) hours each
11 year for two (2) years for a licensed or certified emergency medical
12 service provider. Funding shall not exceed One Million Eight
13 Hundred Fifty Thousand Dollars (\$1,850,000.00) annually;

14 3. Develop a comprehensive training program for medical
15 directors. Funding shall be one-time and shall not exceed One
16 Hundred Fifty Thousand Dollars (\$150,000.00).

17 C. The Physician Manpower Training Commission shall:

18 1. Develop emergency medical technicians as a rural medical
19 resource through grants, scholarships, and training opportunities.
20 Funding shall not exceed Three Hundred Thousand Dollars
21 (\$300,000.00) per year; and

22 2. Add the current chair of the Oklahoma Emergency Response
23 Systems Development Advisory Council as an ex officio board member.

24 D. The State Department of Health shall:

1 1. Require the admission of emergency medical technicians to an
2 appropriate pension fund through employers. The pension fund shall
3 establish admission criteria through an emergency medical services
4 advisory group. Funding shall not exceed an amount set by the
5 Office of State Finance;

6 2. Create a line-of-duty death benefit for emergency medical
7 technicians using the criteria established for fire and police.
8 Funding shall not exceed Ten Thousand Dollars (\$10,000.00) per
9 incident; and

10 3. Establish a four-hundred-dollar tax credit for emergency
11 medical technicians, verified by the State Department of Health as
12 servicing with a state-licensed or -certified emergency medical
13 service provider, with verification of at least one thousand (1,000)
14 hours of contractual emergency response readiness. Funding shall
15 not exceed One Million Dollars (\$1,000,000.00).

16 SECTION 3. AMENDATORY 51 O.S. 2001, Section 152, as last
17 amended by Section 19, Chapter 368, O.S.L. 2004 (51 O.S. Supp. 2006,
18 Section 152), is amended to read as follows:

19 Section 152. As used in The Governmental Tort Claims Act:

20 1. "Action" means a proceeding in a court of competent
21 jurisdiction by which one party brings a suit against another;

22 2. "Agency" means any board, commission, committee, department
23 or other instrumentality or entity designated to act in behalf of
24 the state or a political subdivision;

1 3. "Claim" means any written demand presented by a claimant or
2 the claimant's authorized representative in accordance with this act
3 to recover money from the state or political subdivision as
4 compensation for an act or omission of a political subdivision or
5 the state or an employee;

6 4. "Claimant" means the person or the person's authorized
7 representative who files notice of a claim in accordance with The
8 Governmental Tort Claims Act. Only the following persons and no
9 others may be claimants:

10 a. any person holding an interest in real or personal
11 property which suffers a loss, provided that the claim
12 of the person shall be aggregated with claims of all
13 other persons holding an interest in the property and
14 the claims of all other persons which are derivative
15 of the loss, and that multiple claimants shall be
16 considered a single claimant,

17 b. the individual actually involved in the accident or
18 occurrence who suffers a loss, provided that the
19 individual shall aggregate in the claim the losses of
20 all other persons which are derivative of the loss, or

21 c. in the case of death, an administrator, special
22 administrator or a personal representative who shall
23 aggregate in the claim all losses of all persons which
24 are derivative of the death;

1 5. "Employee" means any person who is authorized to act in
2 behalf of a political subdivision or the state whether that person
3 is acting on a permanent or temporary basis, with or without being
4 compensated or on a full-time or part-time basis.

5 a. Employee also includes:

6 (1) all elected or appointed officers, members of
7 governing bodies and other persons designated to
8 act for an agency or political subdivision, but
9 the term does not mean a person or other legal
10 entity while acting in the capacity of an
11 independent contractor or an employee of an
12 independent contractor,

13 (2) from September 1, 1991, through June 30, 1996,
14 licensed physicians, licensed osteopathic
15 physicians and certified nurse-midwives providing
16 prenatal, delivery or infant care services to
17 State Department of Health clients pursuant to a
18 contract entered into with the State Department
19 of Health in accordance with paragraph 3 of
20 subsection B of Section 1-106 of Title 63 of the
21 Oklahoma Statutes but only insofar as services
22 authorized by and in conformity with the terms of
23 the contract and the requirements of Section 1-
24 233 of Title 63 of the Oklahoma Statutes, and

1 (3) any volunteer, full-time or part-time firefighter
2 when performing duties for a fire department
3 provided for in subparagraph j of paragraph 8 of
4 this section.

5 b. For the purpose of The Governmental Tort Claims Act,
6 the following are employees of this state, regardless
7 of the place in this state where duties as employees
8 are performed:

9 (1) physicians acting in an administrative capacity,

10 (2) resident physicians and resident interns
11 participating in a graduate medical education
12 program of the University of Oklahoma Health
13 Sciences Center or the College of Osteopathic
14 Medicine of Oklahoma State University,

15 (3) faculty members and staff of the University of
16 Oklahoma Health Sciences Center and the College
17 of Osteopathic Medicine of Oklahoma State
18 University, while engaged in teaching duties,

19 (4) physicians who practice medicine or act in an
20 administrative capacity as an employee of an
21 agency of the State of Oklahoma, and

22 (5) physicians who provide medical care to inmates
23 pursuant to a contract with the Department of
24 Corrections.

1 Physician faculty members and staff of the University
2 of Oklahoma Health Sciences Center and the College of
3 Osteopathic Medicine of Oklahoma State University not
4 acting in an administrative capacity or engaged in
5 teaching duties are not employees or agents of the
6 state.

7 c. Except as provided in subparagraph (b) of paragraph 5
8 of this section, in no event shall the state be held
9 liable for the tortious conduct of any physician,
10 resident physician or intern while practicing medicine
11 or providing medical treatment to patients;

12 6. "Loss" means death or injury to the body or rights of a
13 person or damage to real or personal property or rights therein;

14 7. "Municipality" means any incorporated city or town, and all
15 institutions, agencies or instrumentalities of a municipality;

16 8. "Political subdivision" means:

17 a. a municipality,

18 b. a school district,

19 c. a county,

20 d. a public trust where the sole beneficiary or

21 beneficiaries are a city, town, school district or

22 county. For purposes of The Governmental Tort Claims

23 Act, a public trust shall include a municipal hospital

24 created pursuant to Section 30-101 et seq. of Title 11

1 of the Oklahoma Statutes, a county hospital created
2 pursuant to Section 781 et seq. of Title 19 of the
3 Oklahoma Statutes, or is created pursuant to a joint
4 agreement between such governing authorities, that is
5 operated for the public benefit by a public trust
6 created pursuant to Section 176 et seq. of Title 60 of
7 the Oklahoma Statutes and managed by a governing board
8 appointed or elected by the municipality, county, or
9 both, who exercises control of the hospital, subject
10 to the approval of the governing body of the
11 municipality, county, or both,

12 e. for the purposes of The Governmental Tort Claims Act
13 only, a housing authority created pursuant to the
14 provisions of the Oklahoma Housing Authority Act,

15 f. for the purposes of The Governmental Tort Claims Act
16 only, corporations organized not for profit pursuant
17 to the provisions of the Oklahoma General Corporation
18 Act for the primary purpose of developing and
19 providing rural water supply and sewage disposal
20 facilities to serve rural residents,

21 g. for the purposes of The Governmental Tort Claims Act
22 only, districts formed pursuant to the Rural Water,
23 Sewer, Gas and Solid Waste Management Districts Act,
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- 1 h. for the purposes of The Governmental Tort Claims Act
2 only, master conservancy districts formed pursuant to
3 the Conservancy Act of Oklahoma,
- 4 i. for the purposes of The Governmental Tort Claims Act
5 only, a fire protection district created pursuant to
6 the provisions of Section 901.1 et seq. of Title 19 of
7 the Oklahoma Statutes,
- 8 j. for the purposes of The Governmental Tort Claims Act
9 only, a benevolent or charitable corporate volunteer
10 or full-time fire department for an unincorporated
11 area created pursuant to the provisions of Section 592
12 et seq. of Title 18 of the Oklahoma Statutes,
- 13 k. for purposes of The Governmental Tort Claims Act only,
14 an Emergency Services Provider rendering services
15 within the boundaries of a Supplemental Emergency
16 Services District pursuant to an existing contract
17 between the Emergency Services Provider and the
18 Oklahoma State Department of Health. Provided,
19 however, that the acquisition of commercial liability
20 insurance covering the activities of such Emergency
21 Services Provider performed within the State of
22 Oklahoma shall not operate as a waiver of any of the
23 limitations, immunities or defenses provided for
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1 political subdivisions pursuant to the terms of The
2 Governmental Tort Claims Act,

3 l. for purposes of The Governmental Tort Claims Act only,
4 a conservation district created pursuant to the
5 provisions of the Conservation District Act,

6 m. for purposes of The Governmental Tort Claims Act,
7 districts formed pursuant to the Oklahoma Irrigation
8 District Act,

9 n. for purposes of The Governmental Tort Claims Act only,
10 any community action agency established pursuant to
11 Sections 5035 through 5040 of Title 74 of the Oklahoma
12 Statutes, ~~and~~

13 o. for purposes of The Governmental Tort Claims Act only,
14 any organization that is designated as a youth
15 services agency, pursuant to Section 7302-3.6a of
16 Title 10 of the Oklahoma Statutes, and

17 p. for purposes of The Governmental Tort Claims Act only,
18 any physician directing medical operations of an
19 agency licensed or certified by the State Department
20 of Health,

21 and all their institutions, instrumentalities or agencies;

22 9. "Scope of employment" means performance by an employee
23 acting in good faith within the duties of the employee's office or
24 employment or of tasks lawfully assigned by a competent authority

1 including the operation or use of an agency vehicle or equipment
2 with actual or implied consent of the supervisor of the employee,
3 but shall not include corruption or fraud;

4 10. "State" means the State of Oklahoma or any office,
5 department, agency, authority, commission, board, institution,
6 hospital, college, university, public trust created pursuant to
7 Title 60 of the Oklahoma Statutes of which the State of Oklahoma is
8 the beneficiary, or other instrumentality thereof; and

9 11. "Tort" means a legal wrong, independent of contract,
10 involving violation of a duty imposed by general law or otherwise,
11 resulting in a loss to any person, association or corporation as the
12 proximate result of an act or omission of a political subdivision or
13 the state or an employee acting within the scope of employment.

14 SECTION 4. AMENDATORY 63 O.S. 2001, Section 1-2504, is
15 amended to read as follows:

16 Section 1-2504. A. Any hospital or health care facility
17 operating within the state may utilize EMT/Basic, EMT/Intermediate,
18 EMT/Advanced Cardiac or EMT/Paramedic personnel for the delivery of
19 emergency medical patient care within the hospital or health care
20 facility. All licensed ambulance services shall use EMT/Basic,
21 EMT/Intermediate, EMT/Advanced Cardiac, or EMT/Paramedic personnel
22 for on-scene patient care and stabilization and the delivery of
23 prehospital and en route emergency medical care.

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1 B. While participating in an Emergency Medical Technician
2 Basic, Intermediate, or Paramedic training course approved by the
3 Department of Health, the EMT student shall be allowed to perform in
4 the hospital, clinic or prehospital setting, while under the direct
5 supervision of a physician, registered nurse, EMT licensed at a
6 level equal to or above the level of training of the student, or
7 other allied health preceptor, any of the skills determined to be
8 appropriate for the training level of the student by the Department.

9 C. A registered nurse or licensed practical nurse may be used
10 in the back of an ambulance during an interhospital transfer to
11 supplement the skills of an emergency medical technician. A
12 registered nurse or licensed practical nurse functioning in this
13 fashion must be following written orders of a physician or be in
14 direct radio or telephone contact with a physician.

15 D. The process and conclusions of physician-supervised quality
16 improvement programs of licensed or certified emergency medical
17 service agencies shall be protected from discovery.

18 SECTION 5. This act shall become effective November 1, 2007.

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20 51-1-5534 SAB 01/17/07

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