STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 90- 18

Mr. Robert Orth, Chairman
Kansas Board of Emergency Medical Services
P.O. Box 980
Sublette, Kansas   67877

Re: Public Health--Emergency Medical Service--Emergency
           Medical Services Board Established; Members,
           Appointment; Terms; Meetings; Compensation and
           Expenses; Approval of Vouchers; Temporary
           Chairperson

           State Departments; Public Officers and
           Employees--Public Officers and
           Employees--Compensation and
           Allowances--Compensation, Subsistence Allowance,
           Mileage and Expenses of Members of Board; Board
           Defined

Synopsis: An appointed member of the Emergency Medical
           Services Board may refuse his statutorily
           authorized per diem compensation by submitting a
           signed statement to the Chairman of the Board and
           thereby releasing the State from liability. Cited
           herein: K.S.A. 1989 Supp. 65-6102; K.S.A. 75-3223.

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Dear Mr. Orth:

As Chairman of the Emergency Medical Services Board you
inquire whether an appointed Board member may refuse his per
diem compensation of $35.00 a day. You also inquire whether
the refusal should be addressed to a specific individual.

The statute that authorizes compensation for a member of the
Emergency Medical Services Board is subsection (d) of K.S.A.
1989 Supp. 65-6102. It authorizes the payment of
compensation, subsistence allowances, mileage and other
expenses to members of the Board attending meetings or
subcommittee meetings in accordance with K.S.A. 75-3223. It
states in pertinent part:

> "(a) Whenever it is provided by law that a
> member of a board is to receive
> compensation as provided in this section,
> such member shall be paid per diem
> compensation of thirty-five dollars ($35)
> for each day of actual attendance at any
> meeting of such board or any subcommittee
> meeting authorized by such board. No per
> diem compensation shall be paid under this
> section to salaried state officers or
> employees except that whenever a member of
> the legislature is a member of a board he
> or she shall receive compensation as
> provided in K.S.A. 75-3212 and amendments
> thereto.

We will assume for purposes of your question that the Board
member in question is not a member of the legislature. The
statute above provides for the per diem compensation but does
not address its refusal. A perusal of the statutes indicates
there is no statute or regulation that prohibits the refusal
of per diem compensation.

Subsection (f) of K.S.A. 1989 requires that all vouchers and
all payrolls of the emergency medical services board be
approved by the Board. Thus in order to receive the
statutorily authorized per diem compensation the Board must
submit the approved payroll to the Division of Accounts and
Reports in the Department of Administration. If the approved
payroll is not submitted for any entitled individual, the same
is not paid and in effect, the payroll is refused. Thus it is
our opinion that a Board member may refuse his per diem
compensation by not having the agency submit an approved
voucher of payroll to the Director of Accounts and Reports [in
accordance with subsection (f) of K.S.A. 1989 Supp. 65-6102].

In answer to your second inquiry the Board member must submit
a statement of rejection of his per diem compensation with
language that he will release the state from any liability for
payment therefrom. The statement must be addressed to the

Chairman of the Emergency Medical Services Board and make clear which of the statutorily authorized payments the Board member wishes withheld.

In conclusion we opine that a member of the Emergency Medical Services Board may refuse his per diem compensation for attending meetings by submitting a signed statement that releases the State from liability therefrom to the Chairman of the Board.

Very truly yours,

ROBERT T. STEPHAN
Attorney General of Kansas

Guen Easley
Assistant Attorney General

RTS:JLM:GE:jm