

MAINE STATE LEGISLATURE

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Department of Health and Welfare

STATE HOUSE, AUGUSTA, MAINE

Date July 28, 1975

To Farnham Folsom, Acting Director, Emergency Medical Services Program

From James Eastman Smith, Assistant Attorney General

Subject Licensure of Maine National Guard Ambulances

SYLLABUS:

Pursuant to Maine Revised Statutes Annotated Title 32, Sections 71-76, ambulances owned by the Federal government and operated by the State of Maine National Guard must be licensed by the State of Maine Department of Health and Welfare.

FACTS:

The State of Maine National Guard is currently formulating plans to make operative two ambulances to serve their Bangor and Augusta National Guard Facilities.

QUESTION:

Are National Guard Ambulances required to be licensed by the State of Maine Department of Health and Welfare?

ANSWER:

Yes.

REASON:

Maine Revised Statutes Annotated Title 32, Section 71 reads:

No ambulance service shall operate after December 31, 1970 unless it has been duly licensed by the Department of Health and Welfare pursuant to this chapter, except that no license shall be required of any ambulance service located outside of Maine.

Nowhere in the applicable statutes or the Department of Health and Welfare's rules and regulations is found a licensure exception or exemption for the Maine National Guard's ambulances.

The necessary, but unasked, question as to whether or not the services provided by the National Guard fall within the ambit of Federal or State regulations poses a more confusing issue. If the National Guard is Federal in nature and under Federal guise and control, perhaps it can be maintained that the State is foreclosed from regulating its services. If it were settled in the alternative, then possibly the Federal government would be precluded from exercising control. However, it would appear that the Maine National Guard is not solely controlled by either the Federal or State government. The following statements are provided for the purpose of elucidating the situation.

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The United States Code controls the Federal operation of the National Guard. The State of Maine National Guard is, excepting a national emergency (i.e. World War II), under the command of the Governor. Apparently the National Guardsmen are paid by the Federal government and the latter also owns all equipment utilized by the Guard although the other physical real property (i.e. Camp Keyes) is owned by the State.

The vehicles used and maintained by the National Guard are not licensed by the State of Maine. Insurance for these vehicles is paid for by State appropriation through the Department of the Adjutant General.

There are approximately six hundred persons involved with the Maine National Guard as civilian technicians who are employed either on military bases or at armories. These individuals are federal civil service employees who also serve in the National Guard, thus assuming the dual role of civilian worker and military guardsman on certain occasions. Apparently, if an injury occurs of a non-serious nature, the victim whether a guardsman or civilian technician, is spirited away to a local hospital by civilian employees, driving their own mode of transportation. Otherwise, a local ambulance service is called. Camp Keyes has no trained medical technicians to accompany drivers of ambulances or private vehicles, nor does it maintain trained personnel in the medical field much of the time.

It would appear from the foregoing that the State of Maine has an active and real interest in ambulance services provided to civilian technicians and Guardsmen at Camp Keyes and other National Guard facilities. They are under the control of the Governor, on State property, and utilizing public roads and hospitals in serious medical situations.

In response to the second question posed, to wit:

What are the legal liability implications to the Maine National Guard, if they establish ambulances at the two facilities, with regard to patient handling of (a) their own civilian employees, (b) members of the Maine National Guard, and (c) civilians?

I would submit that this should be referred to the proper legal officer assigned to the Maine National Guard.

JES:mm

cc: Colonel Clarence D. Read
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