

# MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 1576, L.D. 2223)  
2 SECOND REGULAR SESSION  
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE  
5

6 Legislative Document

No. 2356

7  
8 H.P. 1671 House of Representatives, April 10, 1986  
9 Reported by Representative Rolde from the Committee on Labor and  
10 printed under Joint Rule 2. Original bill submitted by the Joint Standing  
11 Committee on Audit and Program Review pursuant to Maine Revised Statutes  
Annotated, Title 3, Chapter 23.

EDWIN H. PERT, Clerk

12  
13 STATE OF MAINE  
14

15 IN THE YEAR OF OUR LORD  
16 NINETEEN HUNDRED AND EIGHTY-SIX  
17

18 AN ACT to Strengthen the Organization of  
19 Emergency Medical Services.  
20

21 Be it enacted by the People of the State of Maine as  
22 follows:

23 Sec. 1. 5 MRSA §12004, sub-§1, ¶A, sub-¶(12-A)  
24 is enacted to read:

25 (12-A) Board of Emergency \$20/Day 32 MRSA  
26 Medical Services §88

27 Sec. 2. 5 MRSA §12004, sub-§10, ¶A, sub-¶(67) is  
28 repealed.

29 Sec. 3. 32 MRSA §81-A is enacted to read:

30 §81-A. Statement of purpose

31 It is the purpose of this chapter to promote and  
32 provide for a comprehensive and effective emergency

1 medical services system to ensure optimum patient  
2 care. The Legislature finds that the provision of  
3 medical assistance in an emergency is a matter of vi-  
4 tal concern affecting the health, safety and welfare  
5 of the public.

6 It is the intent of the Legislature to designate  
7 that a central agency be responsible for the coordi-  
8 nation and integration of all state activities con-  
9 cerning emergency medical services and the overall  
10 planning, evaluation and regulation of emergency med-  
11 ical services systems. Further, the Legislature  
12 finds that the provision of prompt, efficient and ef-  
13 fective emergency medical care, effective communica-  
14 tion between prehospital care providers and hospitals  
15 and the safe handling and transportation of the sick  
16 and injured are key elements of an emergency medical  
17 services system. This chapter is intended to promote  
18 the public health, safety and welfare by providing  
19 for the creation of a statewide medical services sys-  
20 tem with standards for all providers of emergency  
21 medical services.

22 Sec. 4. 32 MRSA §82, as enacted by PL 1981, c.  
23 661, §2, is amended to read:

24 §82. Requirement for license

25 1. Licenses required. No ambulance service, am-  
26 bulance, first responder service or emergency medical  
27 services' person may operate unless duly licensed by  
28 the Department of Human Services Board of Emergency  
29 Medical Services pursuant to this chapter, except as  
30 stated in subsection 2.

31 Failure of an ambulance, ambulance service or first  
32 responder service to obtain licensure shall make that  
33 individual or organization subject to a fine of not  
34 more than \$500 or by imprisonment for not more than 6  
35 months, unless other penalties are specified.

36 2. Licenses not required. A Maine license shall  
37 not be required for:

38 A. Ambulance services and ambulances licensed in  
39 another state or province, provided that they do  
40 not have a base of operation in Maine and do not

1 routinely pick up patients from the scene of  
2 their illness or injury in Maine and do not  
3 routinely carry patients between points both of  
4 which are in Maine;

5 B. Ambulance services, ambulances, first  
6 responder services and emergency medical ser-  
7 vices' persons responding into Maine from out-  
8 of-state in response to civil emergencies or nat-  
9 ural disasters;

10 C. Ambulance services, ambulances, first  
11 responder services and emergency medical ser-  
12 vices' persons responding into Maine from out-  
13 of-state pursuant to department board approved  
14 mutual aid agreements with Maine licensed ser-  
15 vices;

16 D. A licensed physician;

17 E. A person serving as an industrial nurse or  
18 safety officer, a school or camp nurse, a life  
19 guard, a ski patrolman, a nurse or technician in  
20 a hospital or a physician's office, or other sim-  
21 ilar occupation in which the person provides on-  
22 site emergency treatment at a single facility to  
23 the patrons or employees of that facility; or

24 F. A person serving as a medical technician with  
25 the United States Armed Forces, the Maine Army  
26 National Guard or the Maine Air National Guard.

27 When any doubt exists as to the applicability of this  
28 section to any person or service, that person or ser-  
29 vice shall seek an advisory opinion from the  
30 department board.

31 Sec. 5. 32 MRSA §83, sub-§§2 and 8, as enacted  
32 by PL 1981, c. 661, §2, are amended to read:

33 2. Advanced emergency medical treatment. "Ad-  
34 vanced emergency medical treatment" means those por-  
35 tions of emergency medical treatment, as defined by  
36 the department board, which may be performed by per-  
37 sons licensed under this chapter only when they are  
38 acting under the supervision of an appropriate physi-  
39 cian and within a system of emergency care approved  
40 by the department board.

1       8. Basic emergency medical treatment. "Basic  
2 emergency medical treatment" means those portions of  
3 emergency medical treatment, as defined by the  
4 department board, which may be exercised by licensed  
5 emergency medical services' personnel acting under  
6 their own authority.

7       Sec. 6. 32 MRSA §83, sub-§8-A is enacted to  
8 read:

9       8-A. Board. "Board" means the Emergency Medical  
10 Services Board established pursuant to section 84.  
11 The board shall be an administrative unit within the  
12 Department of Human Services. It shall be a sepa-  
13 rate, distinct administrative unit, which shall not  
14 be integrated in any way as a part or function of any  
15 other administrative unit of the department. It  
16 shall be equal in organizational level and status  
17 with major organizational units within the department  
18 or its successors.

19       Sec. 7. 32 MRSA §83, sub-§11, as enacted by PL  
20 1981, c. 661, §2, is repealed.

21       Sec. 8. 32 MRSA §83, sub-§§13, 15 and 18 to 21,  
22 as enacted by PL 1981, c. 661, §2, are amended to  
23 read:

24       13. Emergency medical treatment. "Emergency  
25 medical treatment" means those skills, techniques and  
26 judgments, as defined by the department board, which  
27 are directed to maintaining, improving or preventing  
28 the deterioration of the medical condition of the pa-  
29 tient and which are appropriate to be delivered by  
30 trained persons at the scene of a patient's illness  
31 or injury outside the hospital and during transporta-  
32 tion to the hospital.

33       15. License. "License" means a full, temporary,  
34 provisional or conditional license issued by the  
35 department board under this chapter.

36       18. Office of Emergency Medical Services. "Of-  
37 fice of Emergency Medical Services" means whatever  
38 the administrative unit of the department is assigned  
39 within the Department of Human Services as the board  
40 assigns responsibility for carrying out the purposes  
41 of this chapter.

1           19. Protocol. "Protocol" means the written  
2 statement, representing a consensus of the physicians  
3 of an emergency medical services' region and filed  
4 with the department board, specifying the conditions  
5 under which some form of emergency medical care is to  
6 be given by emergency medical services' persons.

7           20. Regional councils. "Regional councils"  
8 means those groups recognized by the department board  
9 which represent the various regions of the State, as  
10 designated by the department board, with respect to  
11 matters subject to this chapter.

12           21. Regions. "Regions" means those geographical  
13 areas of the State designated by the department board  
14 to be represented by a regional council.

15           Sec. 9. 32 MRSA §84, as amended by PL 1983, c.  
16 674, is further amended to read:

17           §84. Board: Powers and duties; goals; work plans

18           1. Powers and duties. The department board has  
19 the following powers and duties.

20           A. The department board shall conduct an emer-  
21 gency medical services' program to fulfill the  
22 purposes, requirements and goals of this chapter.  
23 The department board shall adopt such forms, reg-  
24 ulations, procedures, testing requirements and  
25 records as may be appropriate to carry out the  
26 purposes, requirements and goals of this chapter.

27           B. Notwithstanding any other provision of law,  
28 any rule-making hearing held under this chapter  
29 and required by the Maine Administrative Proce-  
30 dure Act, Title 5, chapter 375, shall be con-  
31 ducted by the board, the Director of the Office  
32 of Emergency Medical Services or other staff as  
33 delegated through rules or a person in a major  
34 policy-influencing position, as defined in Title  
35 5, section 711, who has responsibility over the  
36 subject matter of the proposed rule.

37           C. The department, through the commissioner  
38 board shall appoint a licensed physician as  
39 statewide emergency medical services' medical di-

1 rector. The physician shall advise the Office of  
2 Emergency Medical Services and the board and  
3 shall carry out the duties assigned to the medi-  
4 cal director by this chapter and, by regulations  
5 rules promulgated thereunder pursuant to this  
6 chapter, or as specified by contract.

7 D. Regulations Rules promulgated pursuant to  
8 this chapter shall include, but not be limited  
9 to, the following:

10 (1) The composition of regional councils  
11 and the process by which they come to be  
12 recognized as representing their regions;

13 (2) The manner in which regional councils  
14 shall report their activities and finances,  
15 and the manner in which those activities  
16 shall be carried out under this chapter;

17 (3) The designation of regions within the  
18 State;

19 (4) The requirements for licensure for all  
20 vehicles, persons and services subject to  
21 this chapter, and including training and  
22 testing of personnel; and

23 (5) Fees to be charged for licenses under  
24 this section, except that no fee may be  
25 charged for the licensing of emergency medi-  
26 cal services' persons under this chapter.

27 In adopting any regulation rule under subpara-  
28 graph (4) which requires services which deliver  
29 advanced care to meet a specified percentage lev-  
30 el of performance, the regulation shall not take  
31 effect until after January 1, 1986 and unless the  
32 level is specified after study, in cooperation  
33 with regional councils and local service units.

34 In addition, notwithstanding current regulations  
35 rules, until January 1, 1985, requirements for  
36 licensure at the intermediate level shall allow  
37 an applicant to be licensed for intravenous ther-  
38 apy or defibrillation therapy, or both.

1           2. Goals. The department board shall establish  
2 and pursue its goals as follows.

3           A. The department board shall monitor the provi-  
4 sion of emergency medical services within the  
5 State. The department board shall establish, by  
6 regulation rule, its goals in monitoring the pro-  
7 vision of services and in insuring that these  
8 services are appropriately delivered. These  
9 goals shall be in the nature of objectives and  
10 shall not constitute absolute requirements. In  
11 establishing these goals, the board shall seek  
12 the input of individuals, agencies, services and  
13 organizations interested in emergency medical  
14 services. The board shall also take into consid-  
15 eration the goals established by the regional  
16 councils pursuant to section 89.

17           B. In each year, and in conjunction with the  
18 preparation of the emergency medical services'  
19 report, the director with under the advice  
20 direction of the board shall prepare a list of  
21 those among the goals which most need to be pur-  
22 sued in the succeeding year. This list shall be  
23 made available to the regional councils so that  
24 they may propose projects to further particular  
25 goals within their own regions.

26           C. In pursuing these goals, the department board  
27 may make grants to the regional councils for  
28 projects they have proposed, and which the  
29 department board has determined are consistent  
30 with the requirements and goals of this chapter;  
31 contract for services; cooperate with other de-  
32 partments or agencies; accept and disburse  
33 granted funds; or act in other lawful ways as may  
34 best serve the public good.

35           3. Work plans. Each year, the department board  
36 shall issue an emergency medical services' report in-  
37 dicating:

38           A. The extent to which the emergency medical  
39 system was used throughout the State, and the in-  
40 cidence of various medical conditions which  
41 called it into service;



1 B. The extent and nature of the continuing pro-  
2 grams of training and support for emergency medi-  
3 cal services carried out by the regional coun-  
4 cils, the board and the Office of Emergency Medi-  
5 cal Services;

6 C. The extent to which the goals laid down in  
7 this chapter were pursued, and with what success;

8 D. The plan, for the coming year, to pursue the  
9 various goals; and

10 E. The income and expenditures of the board, of  
11 the Office of Emergency Medical Services and of  
12 the regional councils.

13 Sec. 10. 32 MRSA §84-A is enacted to read:

14 §84-A. Commissioner; powers and duties

15 1. Powers and duties. The commissioner has the  
16 following powers and duties:

17 A. To review the function and operation of the  
18 board and regional councils to assure that these  
19 organizations are in compliance with their statu-  
20 tory and public service responsibilities;

21 B. To act as a liaison between the board and  
22 other administrative units within the department,  
23 with the Governor and the Legislature;

24 C. To carry out the requirements as set forth in  
25 this chapter or as delegated by the board through  
26 rules; and

27 D. To provide the staff and administrative sup-  
28 port necessary for the board to carry out its  
29 function.

30 Sec. 11. 32 MRSA §85, as enacted by PL 1981, c.  
31 661, §2, is amended to read:

32 §85. Emergency medical persons

33 1. Basic and advanced skills. With advice from  
34 and in consultation with each regional council and

1 its medical control committee and with the statewide  
2 emergency medical services' medical director, the  
3 ~~department board~~ may provide, by regulation rule,  
4 which skills, techniques and judgments constitute a  
5 basic emergency medical treatment.

6 2. Advanced emergency medical treatment. With  
7 the advice and consultation noted in subsection 1,  
8 the ~~department board~~ may provide, by regulation rule,  
9 which advanced skills, techniques and judgments may  
10 be supervised by a physician by means of standing or-  
11 ders, by voice radio and by other means. Nothing in  
12 this section may preclude protocols in a particular  
13 region from imposing controls more strict than those  
14 permitted by the ~~department's regulations board's~~  
15 rules on the use of a skill, technique or judgment.  
16 In every case, advanced emergency medical treatment  
17 shall be given in accordance with protocols.

18 The ~~department board~~ may establish by regulation rule  
19 appropriate licensure levels for advanced emergency  
20 medical technicians and fix the qualifications for  
21 persons to hold those licenses.

22 For those individuals licensed at the advanced level,  
23 the board shall establish through rules the criteria  
24 for licensure to include the requirements for renew-  
25 al. Renewal at the advanced level shall not be con-  
26 tingent upon renewal of a basic emergency medical  
27 technician license, but may be as a result of demon-  
28 strated competence at the basic level and advanced  
29 levels. The demonstrated competence at the basic  
30 level for advanced license renewal may be any combi-  
31 nation of requirements, as established by the board,  
32 to include continuing education requirements, passage  
33 of a written or practical test, or both, or the suc-  
34 cessful passage of a refresher course. A person li-  
35 icensed at the advanced level shall be considered as  
36 being licensed at the basic level.

37 3. Minimum requirements for licensing. In set-  
38 ting regulations rules for the licensure of emergency  
39 medical services' persons, the ~~department board~~ shall  
40 insure that no person is licensed to care for pa-  
41 tients unless his qualifications are at least those  
42 specified in this subsection. Any person who meets  
43 these conditions shall be considered to have the cre-

1 dentials and skill demonstrations necessary for the  
2 licensed ambulance attendant level of licensure to  
3 provide basic emergency medical treatment.

4 A. The person must have completed successfully  
5 the United States Department of Transportation  
6 course for first responders or completed success-  
7 fully the American Red Cross Advanced First Aid  
8 and Emergency Care Course, with supplemental  
9 training in extrication, oxygen administration  
10 and airway care, patient evaluation and taking of  
11 vital signs.

12 B. The person must have successfully completed  
13 the American Heart Association basic rescuer  
14 course in cardiopulmonary resuscitation or its  
15 American Red Cross equivalent.

16 C. The person must have successfully completed a  
17 state written and practical test for basic emer-  
18 gency medical treatment.

19 D. The person must be sponsored by a Maine li-  
20 censed ambulance service or first responder ser-  
21 vice.

22 The ~~department~~ board may set by ~~regulation~~ rule in-  
23 tervals at which these qualifications must be renewed  
24 and appropriate courses and testing for that renewal.

25 For those individuals who are licensed or who reli-  
26 cence as a basic emergency medical technician after  
27 September 1, 1986, and who are not licensed at the  
28 advanced level, the basic emergency medical techni-  
29 cian license shall be for a 3-year period. Licensure  
30 shall include, but not be limited to, annual verifi-  
31 cation, as determined by the board through rules. In  
32 addition, that licensure shall require the successful  
33 passage of examinations no more often than once every  
34 3 years. To maintain a valid license, a basic emer-  
35 gency medical technician shall meet the criteria as  
36 set out in this subsection. If such criteria are not  
37 met, a person shall not hold a valid license and  
38 shall reapply for licensure.

39 Sec. 12. 32 MRSA §88, as amended by PL 1983, c.  
40 812, §§190 and 191, is further amended to read:

1        §88. Emergency Medical Services' Board

2            The Emergency Medical Services' Advisory Board,  
3 as established by Title 5, section 12004, subsection  
4 10, shall ~~advise the department with respect to the~~  
5 ~~conflict of~~ be responsible for the emergency medical  
6 services' program.

7            1. Composition; rules; meetings. The board's  
8 composition, conduct and compensation shall be as  
9 follows.

10            A. The board shall have one member representing  
11 each regional council, and 7 persons in addition.  
12 Of the additional persons, one shall be a physi-  
13 cian, one an attorney, one a representative of  
14 the public, one a representative of for-profit  
15 ambulance services, one a professional nurse, one  
16 a representative of first responder services and  
17 one a representative of not-for-profit ambulance  
18 services. The members shall serve for 3-year  
19 terms, and shall be appointed by the Governor.  
20 Members being appointed in 1986 shall serve  
21 3-year terms. Of those terms expiring in 1987,  
22 members shall be appointed for a term to extend 3  
23 years from the date of expiration. Of those  
24 terms expiring in 1988, members shall be ap-  
25 pointed for a 3-year period from the date of ex-  
26 piration. Of those terms expiring in 1989, 4 mem-  
27 bers shall be appointed for 3-year terms and 4  
28 members shall be appointed for 4-year terms, all  
29 from the date of expiration. All appointments  
30 thereafter shall be for 3-year terms. Members  
31 shall be appointed by the Governor. The state  
32 medical director shall be an ex officio nonvoting  
33 member of the board.

34            B. The board shall elect its own chairman to  
35 serve for a 2-year term. It may adopt internal  
36 rules, that shall require, among other things,  
37 that the term of a member who does not attend  
38 regularly be ended. In such a case, another per-  
39 son shall be appointed by the Governor. When a  
40 position becomes vacant, a person shall be ap-  
41 pointed by the Governor to fill the remainder of  
42 the term. Any board member may be removed by the  
43 Governor for cause. The Office of Emergency Medi-

1 cal Services shall provide such staff as is ~~prae-~~  
2 ~~tieable to~~ the board requires and shall maintain  
3 the board's records and files. The board may  
4 have a common seal. The board may establish sub-  
5 committees as it deems appropriate.

6 C. The board shall meet at least quarterly, and  
7 shall also meet at the call of its chairman or ~~of~~  
8 the department at the request of 7 of its  
9 members. When the board meets, its members shall  
10 be compensated according to the provisions of Ti-  
11 tle 5, chapter 379.

12 D. A majority of the members appointed and cur-  
13 rently serving shall constitute a quorum for all  
14 purposes and no decision of the board may be made  
15 without a quorum present. A majority vote of  
16 those present and voting shall be required for  
17 board action with the exception of a 2/3 vote be-  
18 ing required for the suspension or revocation of  
19 a license.

20 2. Functions. The board shall perform the fol-  
21 lowing functions.

22 A. The board shall advise the department on the  
23 conduct direct the operations of the emergency  
24 medical services' program. The board shall adopt  
25 rules in accordance with the Maine Administrative  
26 Procedure Act, Title 5, chapter 375, to carry out  
27 this chapter.

28 B. The board shall hold public hearings on any  
29 proposed changes in the ~~regulations~~ rules allowed  
30 for in this chapter. Hearings held pursuant to  
31 this section are ~~not~~ subject to the Maine Admin-  
32 istrative Procedure Act, Title 5, chapter 375.  
33 In order to encourage participation in these  
34 hearings by volunteers, the board shall hold 2  
35 such hearings as it deems necessary in each re-  
36 gion. Each hearing shall be held in the evening  
37 or at times convenient to the public. At least 2  
38 members of the board shall attend each hearing.

39 C. The board shall review applications for new  
40 licenses for ambulance and first responder  
41 services grant licenses pursuant to this chapter

1           and the rules promulgated under this chapter. It  
2           shall make recommendations to the department con-  
3           cerning the new license applications. It may do  
4           so for renewed applications.

5           D. The board shall establish in rules the condi-  
6           tions under which an emergency medical services  
7           course, refresher course or continuing education  
8           course must be sponsored or offered. The board  
9           shall work toward developing consistent educa-  
10           tional programming in terms of course content,  
11           course requirements and quality of instruction.

12           E. The board shall keep records and minutes of  
13           its activities and meetings. These records and  
14           minutes shall be made easily accessible to the  
15           public and shall be provided expeditiously upon  
16           request.

17           F. The Director of Emergency Medical Services  
18           shall be qualified by training or by experience  
19           and shall be appointed by the Board of Emergency  
20           Medical Services with approval of the commission-  
21           er. The director shall serve for an indefinite  
22           term, subject to removal for cause by the board  
23           with approval of the commissioner. Compensation  
24           shall be fixed by the Governor. The director  
25           shall hire, subject to the Personnel Law, staff  
26           as required to ensure the proper enforcement, im-  
27           plementation and administration of this chapter.  
28           The executive director shall be responsible for  
29           the daily operations of the Office of Emergency  
30           Medical Services.

31           G. The board shall submit to the Commissioner of  
32           Human Services its budgetary requirements in the  
33           same manner as is provided in Title 5, section  
34           1665, and the commissioner shall, in turn, trans-  
35           mit these requirements to the Bureau of the Bud-  
36           get without any revision, alteration or change.  
37           The Department of Human Services shall serve as  
38           the fiscal agent for the board and Office of  
39           Emergency Medical Services.

40           H. The board may enter into contract, subject to  
41           provisions of state law, and delegate this au-  
42           thority to the executive director. The board

1 may also delegate, through rules, to the Office  
2 of Emergency Medical Services or the commissioner,  
3 any provision necessary to carry out this  
4 chapter, including the process of hearings. The  
5 office and department staff shall have access to  
6 all information necessary to carry out their re-  
7 sponsibilities. Funds appropriated or allocated  
8 to the board to be contracted with the regional  
9 councils shall be disbursed, according to guide-  
10 lines established by the board. Funds shall be  
11 expended in accordance with standard state con-  
12 tract or grant procedures and guidelines where  
13 appropriate.

14 Sec. 13. 32 MRSa §§89 and 90, as enacted by PL  
15 1981, c. 661, §2, are amended to read:

16 §89. Regions and regional councils

17 1. Regions to be established; regional councils.  
18 The ~~commissioner~~ board shall delineate regions within  
19 the State for the purposes of this chapter. The  
20 ~~commissioner~~ board shall set out conditions under  
21 which an organization in each region may be recog-  
22 nized by the ~~department~~ board as the regional council  
23 for that region. A regional council shall, at least,  
24 provide adequate representation for ambulance and  
25 rescue services, emergency room physicians and  
26 nurses, each hospital and the general public. A re-  
27 gional council shall be structured to adequately  
28 represent each major geographical part of its region.  
29 Only one regional council shall be recognized in any  
30 region.

31 2. Duties of regional councils. The regional  
32 councils shall function as the primary planning and  
33 operational units of the statewide emergency medical  
34 services' system. Each regional council shall carry  
35 out an annual program, approved by the ~~department~~  
36 board, to further the goals specified in section 84,  
37 subsection 2. Specific responsibilities of the coun-  
38 cils include, but are not limited to, the following:

39 A. The establishment of a regional medical con-  
40 trol committee;

41 B. The appointment of a regional medical direc-  
42 tor, who shall be a licensed physician;

- 1 C. Advising the department board on the licens-  
2 ing of new ambulance, first responder and air am-  
3 bulance services within each region;
- 4 D. Assisting the department board and executive  
5 director in carrying on a program of testing  
6 emergency medical services' persons within each  
7 region, subject to availability of financial re-  
8 sources for the testing;
- 9 E. Developing a certification and decertifica-  
10 tion process for advanced emergency medical ser-  
11 vices' persons within each region; and
- 12 F. Nominating 2 or more candidates from each  
13 council for a position on the Emergency Medical  
14 Services' Advisery Board, from whom the Governor  
15 may select a member-; and
- 16 G. Establishing regional goals to carry out the  
17 provisions of this chapter.

18 §90. Appeals

19 Any person or organization aggrieved by the deci-  
20 sion of the board in refusing to issue, renew, revoke  
21 or suspend a license may appeal the board's decision  
22 to the commissioner for review and determination.  
23 The board's decision shall stand until such time as  
24 the commissioner issues a decision to uphold, modify  
25 or overrule the board's decision.

26 Any person or organization, which is aggrieved by  
27 the decision of the department or board in refusing  
28 to issue or review renew a license, may claim a hear-  
29 ing pursuant to the Maine Administrative Procedure  
30 Act, Title 5, chapter 375.

31 Whenever the department or board decides to re-  
32 voke or suspend a license, it shall do so by filing a  
33 complaint with the Administrative Court pursuant to  
34 the Maine Administrative Procedure Act, Title 5,  
35 chapter 375. The department or board may seek an  
36 emergency suspension, to be in effect for no more  
37 than 30 days, from the Administrative Court pursuant  
38 to Title 4, section 1153.



1           Sec. 14. 32 MRSA §§91 to 94 are enacted to read:

2     §91. Disciplinary actions

3           1. Disciplinary proceedings and sanctions. The  
4 board shall investigate a complaint, on its own  
5 motion or upon receipt of a written complaint filed  
6 with the board, regarding noncompliance with or vio-  
7 lation of this chapter or of any rules adopted by the  
8 board. Investigation may include a hearing before  
9 the board or the board's staff to determine whether  
10 grounds exist for suspension, revocation or denial of  
11 a license or as otherwise deemed necessary by the  
12 board to the fulfillment of its responsibilities under  
13 this chapter. Hearings shall be conducted in  
14 conformity with the Maine Administrative Procedure  
15 Act, Title 5, chapter 375, subchapter IV, to the ex-  
16 tent applicable. The board or department may subpoe-  
17 na witnesses, records and documents, including  
18 records and documents maintained by a health care fa-  
19 ility or other service organization or person relat-  
20 ed to the delivery of emergency medical services, in  
21 any hearing it conducts.

22           2. Notice. The board shall notify the licensee  
23 of the content of a complaint filed against the li-  
24 censee as soon as possible, but in no event later  
25 than within 60 days of receipt of this information.  
26 The licensee shall respond within 30 days. If the  
27 licensee's response to the complaint satisfies the  
28 board that the complaint does not merit further in-  
29 vestigation or action, the matter may be dismissed,  
30 with notice of the dismissal to the complainant, if  
31 any.

32           3. Informal conference. If, in the opinion of  
33 the board, the factual basis of the complaint is or  
34 may be true and it is of sufficient gravity to war-  
35 rant further action, the board or its staff may re-  
36 quest an informal conference with the licensee. The  
37 board shall provide the licensee with adequate notice  
38 of the conference and of the issues to be discussed.  
39 The conference shall be conducted in executive ses-  
40 sion of the board, unless otherwise requested by the  
41 licensee. Statements made at the conference may not  
42 be introduced at a subsequent formal hearing unless  
43 all parties consent.

1       4. Further action by the board. If the board  
2 finds that the factual basis of the complaint is true  
3 and is of sufficient gravity to warrant further ac-  
4 tion, it may take any of the following actions it  
5 deems appropriate.

6       A. With the consent of the licensee, the board  
7 may enter into a consent agreement which fixes  
8 the period and terms of probation best adapted to  
9 protect the public health and safety and to reha-  
10 ilitate or educate the licensee. A consent  
11 agreement may be used to terminate a complaint  
12 investigation, if entered into by the board, the  
13 licensee and the Office of the Attorney General.

14       B. In consideration for acceptance of a volun-  
15 tary surrender of the license, the board may ne-  
16 gotiate stipulations, including terms and condi-  
17 tions for reinstatement, which ensure protection  
18 of the public health and safety and which serve  
19 to rehabilitate or educate the licensee. These  
20 stipulations shall be set forth only in a consent  
21 agreement signed by the board, the licensee and  
22 the Office of the Attorney General.

23       C. If the board concludes that modification or  
24 nonrenewal or nonissuance of the license might be  
25 in order, the board may hold an adjudicatory  
26 hearing in accordance with the Maine Administra-  
27 tive Procedure Act, Title 5, chapter 375, sub-  
28 chapter IV.

29       D. If the board concludes that suspension or  
30 revocation of the license is in order, the board  
31 shall hold a hearing or file a complaint in the  
32 Administrative Court in accordance with Title 4,  
33 chapter 25.

34       5. Grounds for discipline. The board may sus-  
35 pend or revoke a license pursuant to Title 5, section  
36 10004. The following shall be grounds for an action  
37 to refuse to issue, modify, suspend, revoke or refuse  
38 to renew the license of a person, service or vehicle  
39 licensed under this chapter:

40       A. The practice of fraud or deceit in obtaining  
41 a license under this chapter or in connection

1 with service rendered within the scope of the li-  
2 icense issued;

3 B. Habitual intemperance in the use of alcohol  
4 or the habitual use of narcotic, hypnotic or oth-  
5 er substances the use of which has resulted or  
6 may result in the licensee performing his duties  
7 in a manner which endangers the health or safety  
8 of his patients;

9 C. A professional diagnosis of a mental or phys-  
10 ical condition which has resulted or may result  
11 in the licensee performing his duties in a manner  
12 which endangers the health or safety of his pa-  
13 tients;

14 D. Aiding or abetting the practice of emergency  
15 care by a person not duly licensed under this  
16 chapter and who represents himself to be so;

17 E. Incompetence in the practice for which he is  
18 licensed. A licensee shall be deemed incompetent  
19 in the practice if the licensee has:

20 (1) Engaged in conduct which evidences a  
21 lack of ability or fitness to discharge the  
22 duty owed by the licensee to a client, pa-  
23 tient or the general public; or

24 (2) Engaged in conduct which evidences a  
25 lack of knowledge or inability to apply  
26 principles or skills to carry out the prac-  
27 tice for which he is licensed;

28 F. Unprofessional conduct. A licensee shall be  
29 deemed to have engaged in unprofessional conduct  
30 if he violates any standard of professional be-  
31 havior which has been established in the practice  
32 for which the licensee is licensed;

33 G. Subject to the limitations of Title 5, chap-  
34 ter 341, conviction of a crime which involves  
35 dishonesty or false statement which relates di-  
36 rectly to the practice for which the licensee is  
37 licensed or conviction of any crime for which in-  
38 carceration for one year or more may be imposed;

1 H. Any violation of this chapter or any rule  
2 adopted by the board; or

3 I. For other purposes as specified through rules  
4 or law.

5 §92. Confidentiality of information

6 Any reports, information or records provided to  
7 the board or department pursuant to this chapter  
8 shall be confidential insofar as the reports, infor-  
9 mation or records identify or permit identification  
10 of any patient, provided that the board may disclose  
11 any confidential information:

12 1. Hearings or proceedings. In an adjudicatory  
13 hearing or informal conference before the board or in  
14 any subsequent formal proceeding to which information  
15 is relevant; and

16 2. Consent agreements or settlement. In a con-  
17 sent agreement or other written settlement, when the  
18 information constitutes or pertains to the basis of  
19 board action.

20 A copy of any report, information or record re-  
21 ceived by the board under this section shall be pro-  
22 vided to the licensee.

23 §93. Immunity

24 Any person, health care facility or other emer-  
25 gency services organization acting in good faith  
26 shall be immune from civil liability to the licensee  
27 or applicant for licensure for the following actions:

28 1. Making information available to the board or  
29 department. Making any report or other information  
30 available to the board under this chapter; and

31 2. Assisting the board. Assisting the board or  
32 department in carrying out any of their duties.

33 §94. Sunset

34 The operations and conduct of the Board of Emer-  
35 gency Medical Services shall be reviewed in accord-

1 ance with the Maine Sunset Act, Title 3, chapter 23,  
2 no later than June 30, 1989.

3       Sec. 15. Transition clause. Any funds appropri-  
4 ated or allocated to the Department of Human Ser-  
5 vices, Bureau of Health, for emergency medical ser-  
6 vices and any outstanding liabilities for emergency  
7 medical services shall be considered as funds and li-  
8 abilities of the Board of Emergency Medical Services.  
9 Any corresponding powers and duties granted to the  
10 Department of Human Services for the purpose of car-  
11 rying out this Act prior to the effective date of  
12 this Act shall be transferred to the Board of Emer-  
13 gency Medical Services. This shall include, but not  
14 be limited to, those powers as established by rule.  
15 It is the intent of the Legislature that this  
16 transference of responsibility be accomplished within  
17 existing resources. The employees shall be trans-  
18 ferred in their present classifications and shall re-  
19 tain all the same rights, compensation and benefits  
20 for the purposes of this transfer.

21       Sec. 16. Effective date. This Act shall take  
22 effect on September 1, 1986.

23                                   STATEMENT OF FACT

24       Sections 1 and 2 reflect the change in status of  
25 the Emergency Medical Services Board from its present  
26 advisory position to a regulatory board by relocating  
27 the board with boards having the same powers and du-  
28 ties.

29       Section 3 inserts in the law a statement of in-  
30 tent regarding emergency medical services to reflect  
31 its importance to the health, safety and welfare of  
32 the State.

33       Section 4 transfers the authority for licensure  
34 from the Department of Human Services to the Board of  
35 Emergency Medical Services and makes the board re-  
36 sponsible for issuing advisory opinions.

37       Section 5 transfers the authority to define ad-  
38 vanced medical treatment and basic emergency medical  
39 treatment from the department to the board.

1           Sections 6 and 7 eliminate that part which de-  
2 fines the Emergency Medical Services Advisory Board  
3 and reestablishes it as the Emergency Medical Ser-  
4 vices Board to reflect its change in authority. In  
5 addition, this places the board as an administrative  
6 unit within the Department of Human Services.

7           Section 8 transfers the authority for defining  
8 the skills, techniques and judgments in emergency  
9 medical treatment; the licensing authority; the des-  
10 ignation of an administrative unit; and the designa-  
11 tion of regional councils and geographic areas from  
12 the department to the board.

13          Section 9, the Maine Revised Statutes, Title 32,  
14 section 84, subsection 1, transfers the powers of the  
15 department to the board; transfers from the depart-  
16 ment to the board the responsibility for conducting  
17 an emergency medical services program, adopting rules  
18 and testing requirements, the holding of hearings and  
19 the contracting with the state medical director;  
20 transfers the responsibility for the establishment of  
21 goals from the department to the board; requires that  
22 the board solicit input from individuals and organi-  
23 zations interested in or involved in emergency medi-  
24 cal services; and establishes the board's authority  
25 to establish goals and to issue an emergency medical  
26 services' report.

27          Section 10 sets forth the powers and duties of  
28 the Commissioner of Human Services as they relate to  
29 the Board of Emergency Medical Services.

30          Section 11 specifies that renewal of an advanced  
31 license shall not be contingent upon renewal of a ba-  
32 sic emergency medical services license, but may be as  
33 a result of demonstrated competence at the basic lev-  
34 el and advanced levels as established by the board;  
35 transfers the licensure authority from the Department  
36 of Human Services to the board and establishes that a  
37 basic emergency medical services technician license  
38 shall be for a 3-year period.

39          Section 12 ensures that the terms of board mem-  
40 bers shall stagger over a 3-year period, cleans up  
41 mechanical board operations and sets forth that a ma-  
42 jority of the members appointed and currently serving

1 constitute a quorum. Section 12 further provides  
2 that actions of the board shall require a majority  
3 vote of a quorum with the exception of a 2/3 vote be-  
4 ing required for the suspension and revocation of a  
5 license. The section specifies the responsibilities  
6 of the board to include the board's authority to  
7 grant licenses, the board's authority to establish  
8 educational training, the board's responsibility to  
9 keep records and minutes, the board's authority to  
10 appoint and remove a director subject to approval of  
11 the commissioner, the transmittal of budget requests  
12 and the board's authority to contract and delegate  
13 responsibility to the staff and commissioner. This  
14 section also specifies that the Department of Human  
15 Services will provide the administrative budget sup-  
16 port to the board and Office of Emergency Medical  
17 Services and ensures regional fiscal accountability.

18 Section 13, the Maine Revised Statutes, Title 32,  
19 section 89, transfers the authority for the delinea-  
20 tion of regions from the department to the board.  
21 Title 32, section 90, transfers the initial appeals  
22 of aggrieved parties from the department to the board  
23 and authorizes the board and department to file a  
24 complaint with the Administrative Court pursuant to  
25 the Maine Administrative Procedure Act, and provides  
26 an interim appeal to the commissioner.

27 Section 14 adopts language similar to that gov-  
28 erning the operations of other regulatory boards.  
29 This specifies the procedures for the investigation  
30 of a complaint, expands the board's authority to en-  
31 ter into consent agreements with a licensee as a dis-  
32 ciplinary measure and negotiates stipulations for the  
33 voluntary surrender of a license and the terms and  
34 conditions for reinstatement. The intent is to pro-  
35 vide the board with some intermediate disciplinary  
36 procedures. These sections also set forth the  
37 grounds for an action to refuse to issue, modify,  
38 suspend, revoke or renew a license. Section 14 also  
39 ensures the confidentiality of information, provides  
40 immunity for any person, health care facility or oth-  
41 er emergency services organization acting in good  
42 faith and requires the review of the Board of Emer-  
43 gency Medical Services under the Maine Sunset Act,  
44 Title 3, chapter 23.

1           Section 15 provides a transition clause to ensure  
2 the smooth transfer of responsibilities and protec-  
3 tion of present employees.

4           Section 16 establishes that the effective date of  
5 this bill is September 1, 1986, to provide for the  
6 necessary preparation for the transition of responsi-  
7 bility.

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