

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1453

H.P. 1070 House of Representatives, May 6, 1987
Submitted by the Department of Human Services pursuant to
Joint Rule 24.

Reference to the Committee on Judiciary suggested and
ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative GREENLAW of Standish.
Cosponsored by Senator DILLENBACK of Cumberland,
Representatives DEXTER of Kingfield and CARROLL of Gray.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT to Provide Immunity from Civil
2 Liability for Certain Emergency
3 Medical Service System Participants.
4

5 Be it enacted by the People of the State of Maine as
6 follows:

7 32 MRSA §93, as enacted by PL 1985, c. 730, §§14
8 and 16, is repealed and the following enacted in its
9 place:

10 §93. Immunity from civil liability for certain emer-
11 gency medical service system participants

12 1. No civil action to be brought. Notwithstand-
13 ing any inconsistent provisions of a public or pri-
14 vate and special law, no civil action may be brought
15 in any court against any individual, organization or

1 institution described in this section, for actions
2 described in this section, without leave from a jus-
3 tice of the Supreme Court first had and obtained.

4 2. No liability for damages. An individual, or-
5 ganization or institution may not be held liable for
6 damages in any action if that individual, organiza-
7 tion or institution shall have acted in good faith,
8 with reasonable care and, as applicable, upon proba-
9 ble cause.

10 3. Application. This section applies to the
11 following individuals, organizations and institutions
12 for the actions described with each:

13 A. Regional councils as defined in section 83,
14 subsection 20, or any member, officer or employee
15 of any regional council for any act done, failure
16 to act or statement or opinion made, while dis-
17 charging the council's duties or discharging the
18 individual's duties to the council;

19 B. Any physician or nurse affiliated with a hos-
20 pital and licensed by the State and any hospital
21 licensed by the State, its officers and employ-
22 ees, for injuries alleged to have been sustained
23 by a patient in the hospital in the course of or
24 as a result of any medical treatment performed by
25 a basic or advanced emergency medical technician
26 during a clinical skills refresher, or
27 recertification, program approved by a regional
28 council or by a student enrolled in a course of
29 study leading to licensure by the board.

30 This section shall not relieve a hospital of the
31 duty to provide for the supervision of licensed
32 and student technicians by staff qualified in
33 performing and supervising the medical treatments
34 to be employed nor shall it apply if it is estab-
35 lished that those injuries were caused by gross
36 neglect in the supervision on the part of any
37 physician, nurse or hospital, its officers or em-
38 ployees;

39 C. Any physician or nurse affiliated with a hos-
40 pital and licensed by the State and any hospital
41 licensed by the State, its officers and employ-

1 ees, for injuries alleged to have been sustained
2 by a patient during the course of or as a result
3 of emergency treatment ordered by a medical control
4 physician which is consistent with regional
5 protocols, as defined in section 83, subsection
6 19 and section 86, and performed by an individual
7 licensed under this Act;

8 This section shall not apply if those injuries
9 were caused by gross neglect on the part of that
10 physician, nurse or hospital, its officers or em-
11 ployees; or

12 D. Any instructor conducting or faculty partici-
13 ating in an emergency medical services course of
14 training which is a requirement for licensure at
15 any level by the board and which is approved by a
16 regional council for injuries alleged to have
17 been sustained by a patient as a result of emer-
18 gency treatment provided by a student enrolled or
19 formerly enrolled in such a course.

20 This section shall not apply if those injuries
21 were caused by gross neglect on the part of the
22 instructor or other faculty in the preparation of
23 those students or former students to provide that
24 emergency treatment.

1 STATEMENT OF FACT

2 Maine's Emergency Medical Services (EMS) system
3 relies heavily on the largely voluntary role of cer-
4 tain individuals and organizations to provide emer-
5 gency medical care, coordinate the EMS system, and
6 promote the improvement of the emergency medical care
7 available to the people of the State. Voluntary
8 providers of emergency medical care are currently
9 provided immunity from civil liability. This bill
10 would extend this immunity provision to regional EMS
11 councils, and relevant faculty, instructors, hospital
12 personnel and hospitals when participating in teach-
13 ing and training activities leading to the licensure
14 of EMS personnel. This bill would also afford simi-
15 lar immunity to those physicians, nurses and hospi-
16 tals providing emergency care ordered by a medical
17 control physician that is consistent with EMS
18 system's protocols and quality assurance guidelines.

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