

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1890

S.P. 709

In Senate, May 20, 1991

Reported by Senator BUSTIN of Kennebec for the Joint Standing Committee on Audit and Program Review pursuant to the Maine Revised Statutes, Title 3, chapter 33.

Reference to the Committee on Audit and Program Review suggested and ordered printed pursuant to Joint Rule 18.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

**An Act to Relocate Maine Emergency Medical Services from the
Department of Human Services to the Department of Public Safety
Pursuant to the Maine Sunset Act.**



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

2
4 Sec. 1. 32 MRSA §82, sub-§1, as amended by PL 1989, c. 857,
§61, is further amended to read:

6 1. Licenses required. An ambulance service, ambulance,
8 first responder service or emergency medical services person may
not operate or practice unless duly licensed by the Emergency
10 Medical Services' Board pursuant to this chapter, except as
stated in subsection 2.

12 ~~Failure-of-an~~ An ambulance, ambulance service, first responder
14 service or emergency medical services person that fails to obtain
licensure ~~shall make that individual or organization is~~ subject
16 to a fine of not more than \$500 or imprisonment for not more than
6 months, unless other penalties are specified.

18 Sec. 2. 32 MRSA §83, sub-§§9 and 10, as enacted by PL 1981, c.
20 661, §2, are amended to read:

22 9. Commissioner. "Commissioner" means the Commissioner of
Human Services Public Safety.

24 10. Department. "Department" means the Department of Human
26 Services Public Safety.

28 Sec. 3. 32 MRSA §83, sub-§10-A is enacted to read:

30 10-A. Director. "Director" means the Director of Maine
Emergency Medical Services.

32 Sec. 4. 32 MRSA §83, sub-§16-A, as enacted by PL 1989, c. 857,
34 §66, is amended to read:

36 16-A. Maine Emergency Medical Services. "Maine Emergency
38 Medical Services" means the board, the statewide emergency
medical services director, and the staff ~~hired by the director~~
within the Department of Public Safety responsible for carrying
40 out the purposes of this chapter.

42 Sec. 5. 32 MRSA §83, sub-§18, as amended by PL 1987, c. 273,
§2, is repealed.

44 Sec. 6. 32 MRSA §84, sub-§1, ¶A, as amended by PL 1985, c.
46 730, §§9 and 16, is further amended to read:

48 A. The board shall conduct an emergency medical ~~services'~~
services program to fulfill the purposes, requirements and
50 goals of this chapter. The board shall adopt ~~such~~ the
forms, regulations rules, procedures, testing requirements,
52 policies and records ~~as may be~~ appropriate to carry out the
purposes, requirements and goals of this chapter.

2 Sec. 7. 32 MRSA §84, sub-§1, ¶B, as amended by PL 1987, c.
402, Pt. A, §166, is further amended to read:

4
6 B. Notwithstanding any other provision of law, any
rule-making hearing held under this chapter and required by
the Maine Administrative Procedure Act, Title 5, chapter
8 375, shall must be conducted by the board, the ~~Director of~~
~~the Office of Emergency Medical Services~~ director or other
10 staff as delegated ~~through rules~~ by rule or a person in a
major policy-influencing position, as defined in Title 5,
12 section 931, who has responsibility over the subject matter
of the proposed rule.

14 Sec. 8. 32 MRSA §84, sub-§1, ¶C, as amended by PL 1985, c.
16 730, §§9 and 16, is further amended to read:

18 C. The board shall appoint a licensed physician as
statewide emergency medical ~~services'~~ services medical
20 director. The physician shall advise ~~the Office of Maine~~
Emergency Medical Services ~~and the board~~ and shall carry out
22 the duties assigned to the medical director ~~by this chapter,~~
~~by rules promulgated~~ pursuant to this chapter, or as
24 specified by contract.

26 Sec. 9. 32 MRSA §84, sub-§1, ¶D, as amended by PL 1987, c.
273, §4, is further amended to read:

28 D. Rules ~~promulgated~~ adopted pursuant to this chapter shall
30 must include, but are not be limited to, the following:

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

36 (2) The manner in which regional councils shall must
report their activities and finances, and the manner in
38 which those activities shall must be carried out under
this chapter;

40 (3) The designation of regions within the State;

42 (4) The requirements for licensure for all vehicles,
44 persons and services subject to this chapter, and
including training and testing of personnel; and

46 (5) Fees to be charged for licenses under this
48 section, ~~except that no fee may be charged for the~~
~~licensing of emergency medical services' persons under~~
50 this chapter.

2 In adopting any rule under subparagraph (4) which that
4 requires services which that deliver advanced care to meet a
6 specified percentage level of performance, the regulation
shall may not take effect unless the level is specified
after study, in cooperation with regional councils and local
service units.

8 Sec. 10. 32 MRSA §84, sub-§1, ¶E is enacted to read:

10 E. With the approval of the commissioner, the board shall
12 appoint a Director of Maine Emergency Medical Services.

14 Sec. 11. 32 MRSA §84, sub-§2, as amended by PL 1985, c. 730,
§§9 and 16, is further amended to read:

16 2. Goals. The board shall establish and pursue its goals
18 as follows.

20 A. The board shall monitor the provision of emergency
22 medical services within the State. The board shall
24 establish, by rule, its goals in monitoring the provision of
26 services and in insuring that these services are
appropriately delivered. These goals shall must be in the
nature of objectives and shall do not constitute absolute
requirements. In establishing these goals, the board shall
seek the input of individuals, agencies, services and
organizations interested in emergency medical services. The
board shall also take into consideration the goals
established by the regional councils pursuant to section 89.

30 B. In each year, and in conjunction with the preparation of
32 the emergency medical services' services report, the
34 director under the direction of the board shall prepare a
list of those among the goals which that most need to be
pursued in the succeeding year. This list shall must be
36 made available to the regional councils so that they the
regional councils may propose projects to further particular
38 goals within their own regions.

40 C. In pursuing these goals, the board may make grants to
42 the regional councils for projects they the regional
councils have proposed, and which that the board has
determined are consistent with the requirements and goals of
44 this chapter; contract for services; cooperate with other
46 departments or agencies; accept and disburse granted funds;
or act in other lawful ways as may best serve the public
good.

48 Sec. 12. 32 MRSA §84, sub-§3, ¶¶B and E, as amended by PL 1985,
50 c. 730, §§9 and 16, are further amended to read:

2 B. The extent and nature of the continuing programs of
training and support for emergency medical services carried
4 out by the regional councils, ~~the board and the Office of
and Maine~~ Emergency Medical Services;

6 E. The income and expenditures of the board, ~~of the Office
of Emergency Medical Services~~ and of the regional councils.

8
10 Sec. 13. 32 MRSA §85, sub-§2, as amended by PL 1985, c. 730,
§§11 and 16, is further amended to read:

12 2. **Advanced emergency medical treatment.** With the advice
and consultation noted in subsection 1, the board may provide, by
14 rule, which advanced skills, techniques and judgments may be
supervised by a physician by means of standing orders, by voice
16 radio and by other means. Nothing in this section may preclude
protocols in a particular region from imposing controls more
18 strict than those permitted by the board's rules on the use of a
skill, technique or judgment. In every case, advanced emergency
20 medical treatment shall must be given in accordance with
protocols.

22
24 The board may establish by rule appropriate licensure levels for
advanced emergency medical technicians and fix the qualifications
for persons to hold those licenses.

26
28 For those individuals licensed at the advanced level, the board
shall establish through rules the criteria for licensure to
include the requirements for renewal. Renewal at the advanced
30 level shall is not be contingent upon renewal of a basic
emergency medical technician license, but may be as a result of
32 demonstrated competence at the basic level and advanced levels.
The demonstrated competence at the basic level for advanced
34 license renewal may be any combination of requirements, as
established by the board, to include continuing education
36 requirements, passage of a written or practical test, or both, or
the successful passage of a refresher course. A person licensed
38 at the advanced level shall be is considered as being licensed at
the basic level.

40
42 Sec. 14. 32 MRSA §86, as amended by PL 1985, c. 530, §3, is
further amended to read:

44 **§86. Ambulance services and first responder services**

46 1. **Ambulance services and first responder to be licensed.**
Every ambulance service and first responder service shall must be
48 licensed and ~~shall~~ operate in accordance with the regulations

2 rules adopted for such services under this chapter and shall
carry the equipment called for in those ~~regulations~~ rules.

4 2. Care of patient. Whenever an ambulance transports a
6 patient from the scene of an emergency, the patient shall must be
8 cared for by a physician or by a person licensed under this
chapter to provide emergency medical care. Whenever an ambulance
10 transports a patient from a hospital or other health-care health
care facility to another place, the patient shall must be cared
for by:

12 A. The physician in charge of the patient's case, by a
14 person licensed under this chapter or by a professional
nurse; or

16 B. A licensed practical nurse, or other person
18 appropriately trained to care for the patient, acting under
orders from the patient's physician.

20 The person specified in this subsection as caring for the patient
22 shall accompany the patient in the portion of the ambulance where
the patient rides.

24 2-A. Treatment to be in accord with regional medical
26 orders. When an ambulance service or first responder service is
present at an accident or other situation in which a person or
28 persons require emergency medical treatment, the medical
treatment of the patients shall must be carried out in accordance
30 with any rules ~~premulgated~~ adopted under this chapter, any
protocols issued by the ~~Regional--Medical--Director~~ regional
32 medical director and any verbal orders given under the system of
delegation established by the ~~Regional--Medical--Director~~ regional
medical director; except that:

34 A. When a patient is already under the ~~personal~~ supervision
36 of ~~his--own~~ a personal physician or of a physician's
assistant supervised by that physician and the physician or
38 physician's assistant assumes the care of the patient, then
for as long as the physician or physician's assistant
40 remains with the patient, the patient shall be cared for as
the physician or physician's assistant directs. The
42 emergency medical ~~services'~~ services persons shall assist to
the extent that their licenses and protocol allow; and

44 B. No patient is required to accept treatment to which he
46 the patient does not consent.

48 3. Air transportation. Any patient transported by air must
be flown on a service licensed under Federal Aviation
50 Regulations, Part 135 or Part 121. In such an instance, the
flight shall--be is deemed to be an air ambulance, and the
52 patient must be cared for as provided in subsection 2.

2 Sec. 15. 32 MRSA §87, as enacted by PL 1981, c. 661, §2, is
amended to read:

4 **§87. Ambulances**

6 Each ambulance shall ~~shall~~ must be licensed pursuant to this
chapter. It shall ~~shall~~ must also meet the design criteria and shall
8 be equipped as specified in ~~regulations~~ rules adopted under this
chapter.

10 Sec. 16. 32 MRSA §88, as amended by PL 1989, c. 857, §§70 and
12 71, is further amended to read:

14 **§88. Emergency Medical Services' Board**

16 The Emergency Medical Services' Board, as established by
Title 5, section 12004-A, subsection 15, ~~shall be~~ is responsible
18 for the emergency medical ~~services'~~ services program.

20 1. **Composition; rules; meetings.** The board's composition,
conduct and compensation shall ~~be~~ are as follows.

22 A. The board ~~shall have~~ has one member representing each
24 regional council, and 7 persons in addition. Of the
additional persons, one shall ~~be~~ is a physician, one an
26 attorney, one a representative of the public, one a
representative of for-profit ambulance services, one a
28 professional nurse, one a representative of first responder
services and one a representative of not-for-profit
30 ambulance services. ~~Members being appointed in 1986 shall~~
~~serve 3-year terms. Of these terms expiring in 1987,~~
32 ~~members shall be appointed for a term to extend 3 years from~~
~~the date of expiration. Of those terms expiring in 1988,~~
34 ~~members shall be appointed for a 3-year period from the date~~
~~of expiration. Of those terms expiring in 1989, 4 members~~
36 ~~shall be appointed for 3-year terms and 4 members shall be~~
~~appointed for 4-year terms, all from the date of~~
38 ~~expiration. All appointments thereafter shall be~~
Appointments are for 3-year terms. Members shall must be
40 appointed by the Governor. The state medical director shall
be is an ex officio nonvoting member of the board.

42 B. The board shall elect its own chairman chair to serve
44 for a 2-year term. ~~It may adopt internal rules, that shall~~
~~require, among other things, that the term of a member who~~
46 ~~does not attend regularly be ended. In such a case, another~~
~~person shall be appointed by the Governor. When a position~~
48 ~~becomes vacant, a person shall be appointed by the Governor~~
~~to fill the remainder of the term. The board may adopt~~
50 internal rules that may include, but are not limited to,
termination of board membership as a consequence of
52 irregular attendance. If a board member does not serve a

2 full term of appointment, the Governor shall appoint a
3 successor to fill the vacancy for the remainder of the
4 term. Any board member may be removed by the Governor for
5 cause. ~~The--Office--of--Emergency--Medical--Services--shall~~
6 ~~provide--such--staff--as--the--board--requires--and--shall--maintain~~
7 ~~the--board's--records--and--files.~~ The board may have a common
8 seal. The board may establish subcommittees as it deems
determines appropriate.

10 C. The board shall meet at least quarterly, and shall ~~also~~
11 meet at the call of its chairman chair or at the request of
12 7 ~~of--its~~ members. When the board meets, its members shall
13 ~~be--compensated~~ are entitled to compensation according to the
14 provisions of Title 5, chapter 379.

16 D. A majority of the members appointed and currently
17 serving shall ~~constitute~~ constitutes a quorum for all
18 purposes and no decision of the board may be made without a
19 quorum present. A majority vote of those present and voting
20 shall ~~be~~ is required for board action, except that for
21 purposes of either granting a waiver of any of its rules or
22 deciding to pursue the suspension or revocation of a
23 license, the board may take action only if the proposed
24 waiver, suspension or revocation receives a favorable vote
25 from at least 2/3 of the members present and voting and from
26 no less than a majority of the appointed and currently
27 serving members. When the board is required to take
28 emergency action and ~~it is not possible to convene~~ convening
29 a meeting of the board in a timely manner is not possible,
30 the board may take any action authorized by telephonic
31 conference or by any other means authorized by rule.

32
33 2. **Functions.** The board shall perform the following
34 functions.

36 A. The board shall direct the operations of the emergency
37 medical services' services program. ~~The board shall adopt~~
38 ~~rules in accordance with the Maine Administrative Procedure~~
39 ~~Act, Title 5, chapter 375, to carry out this chapter.~~

40 B. ~~The~~ With the advice of the commissioner, the board shall
41 ~~hold public hearings on any proposed changes in the rules~~
42 ~~allowed for in this chapter. Hearings held pursuant to this~~
43 ~~section are subject to~~ adopt rules in accordance with the
44 Maine Administrative Procedure Act, Title 5, chapter 375 to
45 carry out this chapter. In order to encourage participation
46 ~~in these~~ at rule-making hearings by emergency medical
47 services volunteers, the board shall hold such hearings as
48 ~~it deems necessary~~ as determined necessary.
49 Each hearing shall must be held in the evening or at times
50 convenient to the public. At least 2 members of the board
51 shall attend each hearing.

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C. The board shall grant licenses pursuant to this chapter ~~and the rules promulgated under this chapter.~~

D. The board shall establish specify in rules the ~~conditions under which~~ criteria that must be met as a precondition to offering an emergency medical services course, refresher course or continuing education course ~~must be sponsored or offered.~~ The board shall work toward developing consistent educational programming in terms of course content, course requirements and quality of instruction.

E. The board shall keep records and minutes of its activities and meetings. These records and minutes must be made easily accessible to the public and be provided expeditiously upon request. The board shall distribute to all licensed emergency medical services persons a publication listing training and testing opportunities, meeting schedules of the board and regional councils, proposed rule changes and other information judged by the board to have merit in improving emergency medical patient care in the State. The board shall create, print and distribute this publication in the most cost-efficient manner possible. Any paid advertising utilized to accomplish this purpose may not be solicited by board members or staff and must be included in such a way that endorsement of a product or service by the board can not reasonably be inferred. The board may prepare, publish and disseminate educational and other materials to improve emergency medical patient care.

~~F. The Director of Emergency Medical Services shall be qualified by training or by experience and shall be appointed by the Board of Emergency Medical Services with approval of the commissioner. The director shall serve for an indefinite term, subject to removal for cause by the board with approval of the commissioner. Compensation shall be fixed by the Governor. The director shall hire, subject to the Personnel Law, staff as required to ensure the proper enforcement, implementation and administration of this chapter. The executive director shall be responsible for the daily operations of the Office of Emergency Medical Services.~~

F-1. With the approval of the commissioner, the board shall appoint the director who shall serve for an indefinite term. The director must be qualified by training or experience and is subject to removal for cause. Compensation of the director must be set by the board with the approval of the commissioner.

2 G. The board shall submit to the Commissioner of Human
3 Services commissioner its budgetary requirements in the same
4 manner as is provided in Title 5, section 1665, ~~and the~~
5 ~~commissioner shall, in turn, transmit these requirements to~~
6 ~~the Bureau of the Budget without any revision, alteration or~~
7 ~~change.~~ The Department of Human Services department shall
8 serve as the fiscal agent for the board and Office of Maine
Emergency Medical Services.

10 H. ~~The~~ With the approval of the commissioner, the board may
11 enter into contracts, subject to provisions of state law,
12 and delegate this authority to the director. The board may
13 also delegate, through rules, to ~~the Office of Emergency~~
14 ~~Medical Services or the commissioner~~ staff, any provision
15 necessary to carry out this chapter, including the process
16 of hearings. ~~The office and department staff must have~~
17 ~~access to all information necessary to carry out their~~
18 ~~responsibilities.~~ Funds appropriated or allocated to the
19 board to be contracted with the regional councils may be
20 disbursed on a sole-source contract basis, according to
21 guidelines established by the board. Funds must be expended
22 in accordance with standard state contract or grant
23 procedures and guidelines where appropriate.

24 I. The board may establish and collect licensure fees,
25 application fees, examination fees, course and conference
26 fees, tuition and other charges as determined necessary by
27 the board for the efficient administration of this chapter.
28 All funds received pursuant to this paragraph must be
29 deposited into a nonlapsing fund established for the
30 purpose. Maine Emergency Medical Services shall administer
31 the fund with the advice and consent of the commissioner.
32 Funds must be deposited with the Treasurer of State to the
33 credit of the fund and may be invested as provided by law.
34 Interest on these investments must be credited to the fund.

36 Sec. 17. 32 MRSA §88-A is enacted to read:

38 §88-A. Director's duties

40 In addition to other duties set out in this chapter, the
41 director shall administer Maine Emergency Medical Services. With
42 the knowledge and consent of the commissioner, the director shall
43 oversee all personnel matters and, subject to the Civil Service
44 Law, may hire personnel as required to enforce, implement and
45 administer this chapter.

48 Sec. 18. 32 MRSA §89, as amended by PL 1989, c. 857, §72, is
49 further amended to read:

50 §89. Regions and regional councils

1. Regions to be established; regional councils. The board shall delineate regions within the State ~~for~~ to carry out the purposes of this chapter. The board shall set out conditions under which an organization in each region may be recognized by the board as the regional council for that region. A regional council shall, at least a minimum, provide adequate representation for ambulance and rescue services, emergency room physicians and nurses, each hospital and the general public. A regional council shall must be structured to adequately represent each major geographical part of its region. Only one regional council shall may be recognized in any region.

2. Duties of regional councils. The regional councils shall function as the primary planning and operational units of the statewide emergency medical services' services system. Each regional council shall carry out an annual program, approved by the board, to further the goals specified in section 84, subsection 2. Specific responsibilities of the councils include, but are not limited to, the following:

A. ~~The establishment of~~ Establishing a regional medical control committee;

B. ~~The appointment of~~ Appointing, subject to approval by the board, ~~of~~ a regional medical director, who must be a licensed physician and shall serve as an agent of Maine Emergency Medical Services. The regional medical director may delegate in writing to other licensed physicians, who shall similarly serve as agents of Maine Emergency Medical Services, the responsibilities of this position;

C. Advising the board on the licensing of new ambulance, first responder and air ambulance services within each region;

D. ~~Assisting the board and executive director~~ Maine Emergency Medical Services in carrying on a program of testing emergency medical services' services persons within each region, subject to availability of financial resources for the testing;

E. Developing a certification and decertification process for advanced emergency medical services' services persons within each region;

F. Nominating 2 or more candidates from each council for a position on the Emergency Medical Services' Board, from whom the Governor may select a member; and

G. Establishing regional goals to carry out the provisions of this chapter.

2 Sec. 19. 32 MRSA §90-A, as enacted by PL 1987, c. 273, §8, is
amended to read:

4 **§90-A. Disciplinary actions**

6 1. **Disciplinary proceedings and sanctions.** The board or
its staff shall investigate a complaint, on the board's own
8 motion or upon receipt of a written complaint filed with the
board, regarding noncompliance with or violation of this chapter
10 or of any rules adopted by the board. Investigation may include
an informal conference or a hearing or both before the board or
12 ~~the--board's~~ staff to determine whether grounds exist for
suspension, revocation or denial of a license or as otherwise
14 deemed determined necessary by the board to the fulfillment of
its responsibilities under this chapter. Hearings shall must be
16 conducted in conformity with the Maine Administrative Procedure
Act, Title 5, chapter 375, subchapter IV, to the extent
18 applicable. The board ~~ex--department~~ may subpoena witnesses,
records and documents, including records and documents maintained
20 by a health care facility or other service organization or person
related to the delivery of emergency medical services, in any
22 hearing it conducts.

24 2. **Notice.** The board shall notify the licensee of the
content of a complaint filed against the licensee as soon as
26 possible, but in no event later than 60 days after the board or
its staff receives the initial pertinent information. The
28 licensee ~~shall--have~~ has the right to respond within 30 days in
all cases except those involving an emergency denial, suspension
30 or revocation, as described in the Maine Administrative Procedure
Act, Title 5, chapter 375, subchapter V. If the licensee's
32 response to the complaint satisfies the board or its staff that
the complaint does not merit further investigation or action, the
34 matter may be dismissed, with notice of the dismissal to the
complainant, if any.

36 3. **Informal conference.** If, in the opinion of the board,
38 the factual basis of the complaint is or may be true and ~~it~~ the
complaint is of sufficient gravity to warrant further action, the
40 board or its staff may request an informal conference with the
licensee. The board shall provide the licensee with adequate
42 notice of the conference and of the issues to be discussed. The
conference shall must be conducted in executive session of the
44 board, subcommittee or staff unless otherwise requested by the
licensee. Statements made at the conference may not be
46 introduced at a any subsequent formal administrative or judicial
hearing unless all parties consent. The licensee may, without
48 prejudice, refuse to participate in an informal conference if the
licensee prefers to immediately hold a formal hearing. If the
50 licensee participates in the informal conference, the licensee
waives the right to object to any participant at the hearing who
52 participated at the informal conference.

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

8 A. ~~With the consent of the licensee, the~~ The board may
10 enter into a consent agreement which, with the consent of
12 the licensee, that fixes the period and terms of probation
14 ~~best adapted necessary~~ to protect the public health and
safety and to rehabilitate or educate the licensee. A
consent agreement may be used to terminate a complaint
investigation, if entered into by the board, the licensee
and the ~~Office~~ Department of the Attorney General.

16 B. ~~In consideration for acceptance of a voluntary surrender~~
18 ~~of the~~ If a licensee voluntarily surrenders a license, the
20 board may negotiate stipulations, ~~including terms and~~
22 ~~conditions for reinstatement, which necessary~~ to ensure
24 protection of the public health and safety and which ~~serve~~
to rehabilitate or educate the rehabilitation or education
of the licensee. These stipulations shall may be set forth
only in a consent agreement signed by the board, the
licensee and the ~~Office~~ Department of the Attorney General.

26 C. If the board concludes that modification, nonrenewal or
28 nonissuance of the a license is in order, the board shall so
30 notify the applicant-licensee and inform him the
32 applicant-licensee of his the applicant-licensee's right to
34 request an adjudicatory hearing. If the applicant-licensee
36 timely requests such a an adjudicatory hearing in a timely
38 manner, it shall the adjudicatory hearing must be held by
40 the ~~hearings unit of the department~~ board in accordance with
42 the Maine Administrative Procedure Act, Title 5, chapter
44 375, subchapter IV. At the conclusion of the hearing, the
46 hearing-officer board shall forward a written finding of
48 facts and recommended decision to the commissioner.
50 Opportunity shall must then be given for the
applicant-licensee and the board to file comments on the
findings of fact and recommended decision to the
commissioner. The commissioner, after considering the
findings, recommendations and comments, shall either adopt
or reject the recommended decision within a reasonable
period of time. If the commissioner rejects the
recommendation or issues a modified decision, the
commissioner's written decision shall must contain the
specific reasons for modifying or rejecting the recommended
decision. The commissioner's decision shall ~~be~~ is the
department's final decision.

52 D. Except in the specific circumstances where the Maine
Administrative Procedure Act, Title 5, section 10004 may be
invoked, if the board concludes that suspension or

2 revocation of the license is in order, the board shall hold
3 a hearing or file a complaint in the Administrative Court in
4 accordance with Title 4, chapter 25, to commence either full
or emergency proceedings.

6 5. **Grounds for discipline.** The board may suspend or revoke
7 a license pursuant to Title 5, section 10004. ~~The following~~
8 ~~shall be grounds for an action either to refuse~~ Refusal to issue
9 or renew a license or to modify, suspend or revoke ~~or refuse to~~
10 ~~renew the~~ a license of a person, service or vehicle licensed
11 ~~under this chapter may be predicated on the following grounds:~~

12 A. ~~The practice of fraud~~ Fraud or deceit in obtaining a
13 license under this chapter or in connection with service
14 rendered within the scope of the license issued;

15 B. Habitual intemperance in the use of alcohol or the
16 ~~habitual use of~~ narcotic, hypnotic or other substances, ~~the~~
17 ~~use of which~~ that has resulted impaired or is likely to
18 ~~result in the licensee performing his duties in a manner~~
19 ~~which endangers~~ impair the licensee's performance and
20 endanger the health or safety of ~~his~~ the licensee's patients;

21 C. A professional diagnosis of a mental or physical
22 condition which that has resulted affected or is likely to
23 ~~result in the licensee performing his duties~~ affect the
24 licensee's performance in a manner which that endangers the
25 health or safety of ~~his~~ the licensee's patients;

26 D. Aiding or abetting the practice of emergency care by a
27 person not duly licensed under this chapter and who
28 ~~represents himself~~ purports to be so;

29 E. ~~Incompetence in the~~ Incompetent professional practice
30 ~~for which he is licensed, A licensee shall be deemed~~
31 ~~incompetent in the practice if the licensee has as evidenced~~
32 by:

33 (1) ~~Engaged in conduct which evidences a lack of~~
34 ~~ability or fitness~~ Demonstrated inability to discharge
35 ~~the duty owed by the licensee~~ respond appropriately to
36 a client, patient or the general public; or

37 (2) ~~Engaged in conduct which evidences a lack of~~
38 ~~knowledge or inability~~ Inability to apply principles
39 ~~or skills or knowledge necessary to successfully carry~~
40 ~~out the practice for which he~~ the licensee is licensed;

41 F. ~~Unprofessional conduct, A licensee shall be deemed to~~
42 ~~have engaged in unprofessional conduct if he violates~~
43 Violation of any reasonable standard of professional
44 behavior which conduct or practice that has been
45
46
47
48

2 established in the practice for which the licensee is
licensed;

4 G. Subject to the limitations of Title 5, chapter 341,
6 conviction of a crime which that involves dishonesty or
false statement which that relates directly to the practice
8 for which the licensee is licensed or conviction of any
crime for which incarceration for one year or more may be
imposed;

10 H. Any violation of this chapter or any rule adopted by the
12 board; or

14 I. For other purposes as specified by rules or law.

16 **Sec. 20. 32 MRSA §91-A, first ¶**, as enacted by PL 1987, c. 273,
18 **§8**, is amended to read:

20 Any person or organization aggrieved by the decision of the
board in modifying or refusing to issue or renew a license or to
22 waive application of a particular rule may appeal the board's
decision to the ~~department's--hearings--unit--for--a--full~~
24 ~~adjudicatory--hearing--and~~ commissioner for a final decision by the
26 ~~emmissioner~~. The board's decision shall ~~stand~~ stands until such
time as the commissioner issues a decision to uphold, modify or
overrule the board's decision.

28 **Sec. 21. 32 MRSA §92, first ¶**, as enacted by PL 1985, c. 730,
30 **§§14 and 16**, is amended to read:

32 Any reports, information or records provided to the board or
department pursuant to this chapter shall must be provided to the
34 licensee and are confidential insofar as the reports, information
or records identify or permit identification of any patient,
36 provided that the board may disclose any confidential information
as follows:

38 **Sec. 22. 32 MRSA §92, last ¶**, as enacted by PL 1985, c. 730,
40 **§§14 and 16**, is repealed.

42 **Sec. 23. 32 MRSA §92-A, sub-§§1 and 2**, as enacted by PL 1989,
c. 288, are amended to read:

44 1. **Immunity from suit.** Any person who participates in the
activities of any emergency medical services quality assurance
46 committee approved by the ~~Emergency-Medical-Services-Board~~ board
is immune from civil liability for undertaking or failing to
48 undertake any act within the scope of ~~the--function~~ of the
committee.

50 2. **Confidentiality.** All proceedings and records of
52 proceedings concerning the quality assurance activities of any

2 emergency medical services quality assurance committee approved
3 by the board are confidential and shall--be are exempt from
4 discovery.

5 Sec. 24. 32 MRSA §93, as enacted by PL 1985, c. 730, §§14 and
6 16, is amended to read:

7 **§93. Immunity**

8 Any person, health care facility or other emergency services
9 organization acting in good faith shall--be is immune from civil
10 liability to the licensee or applicant for licensure for the
11 following actions:

12 1. **Report; information.** Making any report or other
13 information available to the--board Maine Emergency Medical
14 Services under this chapter; and

15 2. **Assisting.** Assisting the--board--or--department Maine
16 Emergency Medical Services in carrying out any of their its
17 duties.

18 Sec. 25. 32 MRSA §93-A, as enacted by PL 1987, c. 638, §2, is
19 amended to read:

20 **§93-A. Immunity for supervision and training**

21 1. **Emergency medical treatment supervision.** No physician
22 functioning within the medical control system established by the
23 regional medical director and practicing in a hospital to or from
24 which patients are transported under section 86 or health care
25 practitioner under such a physician's supervision who gives oral
26 or written instructions to a basic emergency medical services
27 person or an advanced emergency medical technician for the
28 provision of emergency medical treatment outside the hospital may
29 be civilly liable for negligence as a result of issuing the
30 instructions, if the instructions were in accordance with the
31 protocol for the patient's reported condition. For the purpose
32 of aiding in establishing the use of a protocol that will--permit
33 permits the immunity provided in this subsection, the following
34 provisions apply:

35 A. The basic emergency medical services person or advanced
36 emergency medical technician to whom the instructions are
37 given shall document those instructions on the state
38 ambulance run record; and

39 B. The physician or health care practitioner giving the
40 instructions shall maintain a medical control log
41 documenting those instructions at the time they were given
42 and shall sign the log.

43

2 The immunity provided in this subsection extends to the hospital
3 in which the physician described in this subsection is practicing
4 or the health care practitioner described in this subsection is
being supervised.

6 2. **Emergency medical services persons' training.** Except as
7 otherwise provided in this subsection, no hospital, physician or
8 health care practitioner providing an emergency medical services
9 course, refresher course or continuing education course approved
10 by the ~~Office of~~ Maine Emergency Medical Services may be
11 vicariously liable for the civil liability of a person enrolled
12 in the course to a person receiving emergency medical treatment
13 during the course.

14 The immunity provided by this subsection does not apply if the
15 person enrolled in the course is an employee of the hospital,
16 physician or health care practitioner seeking immunity under this
17 subsection.

18
19 **Sec. 26. 32 MRSA §94,** as enacted by PL 1985, c. 730, §§14 and
20 16, is amended to read:

21
22 **§94. Sunset**

23 The operations and conduct of the ~~Board of~~ Maine Emergency
24 Medical Services shall must be reviewed in accordance with the
25 Maine Sunset Act, Title 3, chapter 23 33, no later than June 30,
26 1989 2003.

27
28
29 **Sec. 27. Transition provisions.**

30
31 1. All existing rules and procedures in effect, in
32 operation or adopted in or by the former Office of Emergency
33 Medical Services are declared in effect and continue in effect
34 until rescinded, revised or amended by the proper authority.

35
36 2. All existing contracts, agreements and compacts
37 currently in effect in the former Office of Emergency Medical
38 Services continue in effect.

39
40 3. Funds transferred notwithstanding the Maine Revised
41 Statutes, Title 5, sections 1585 and 1586, all accrued
42 expenditures, assets, liabilities, balances or allocations,
43 transfers, revenues or other available funds in any account or
44 subdivision of an account of the Department of Human Services and
45 authorized for use by the Emergency Medical Services' Board or
46 the Office of Emergency Medical Services must be reallocated to
47 Maine Emergency Medical Services within the Department of Public
48 Safety.

49
50 4. The transfer of Maine Emergency Medical Services from
51 the Department of Human Services to the Department of Public
52 Safety does not affect the terms of current members of the
53 Emergency Medical Services' Board.

2 **Sec. 28. Appropriation.** The following funds are appropriated
 4 from the General Fund to carry out the purposes of this Act.

	1991-92	1992-93
HUMAN SERVICES, DEPARTMENT OF		
Emergency Medical Services		
10		
	(3)	(4)
12	(\$121,235)	(\$161,415)
	(645,448)	(649,068)
14	(1,228)	(1,300)
16		
18		
20		
22		
24		
26	<u>(\$767,911)</u>	<u>(\$814,783)</u>
PUBLIC SAFETY, DEPARTMENT OF		
Emergency Medical Services		
32		
	(3)	(4)
34	\$121,235	\$164,415
	645,448	649,068
36	1,228	1,300
38		
40		
42		
44		
46		
48	<u>\$767,911</u>	<u>\$814,783</u>
50		
	<u>\$-0-</u>	<u>\$-0-</u>

2	Positions - Legislative Count	(4.0)	(3.0)
	Personal Services	\$177,039	\$154,668
4	All Other	32,741	21,494
6	Provides for the allocation		
	of Federal Block Grant funds		
8	to the Department of Public		
	Safety from the Department of		
10	Human Services to effect the		
	organizational transfer of		
12	Maine Emergency Medical		
	Services.		
14			
16	DEPARTMENT OF PUBLIC SAFETY		
	TOTAL	<u>\$209,780</u>	<u>\$176,162</u>
18			
20	TOTAL ALLOCATIONS	<u>\$-0-</u>	<u>\$-0-</u>

FISCAL NOTE

24 This bill transfers Maine Emergency Medical Services from
 26 the Department of Human Services to the Department of Public
 28 Safety, with attendant positions and funding totaling \$767,911
 for fiscal year 1991-92 and \$814,783 for fiscal year 1992-93.
 This transfer results in offsetting appropriations and
 deappropriations from the General Fund.

30 This bill also transfers Federal Block Grant funds from the
 32 Department of Human Services to the Department of Public Safety,
 with attendant positions and funding totaling \$209,780 for fiscal
 34 year 1991-92 and \$176,162 for fiscal year 1992-93. This transfer
 results in offsetting allocations and deallocations from the
 36 Federal Block Grant.

38 This bill also establishes an Other Special Revenue account
 40 within the Department of Public Safety for funds collected by
 42 Maine Emergency Medical Services through fees for licensure,
 examination and application; the sale of Emergency Management
 44 Services patches and protocol books; and fees charged for
 training and conferences. Licensing fees totaling approximately
 46 \$10,000 per fiscal year previously deposited into a dedicated
 revenue account within the Department of Human Services, Bureau
 of Medical Services, will now accrue to this Other Special
 Revenue account within the Department of Public Safety.

48 These amounts may require adjustment depending on the
 50 current services budget enacted by the Legislature. The
 Governor's proposed adjusted current services budget affects the
 52 Maine Emergency Medical Services program and these amounts.

2

STATEMENT OF FACT

4

6 This bill transfers Maine Emergency Medical Services from
the Department of Human Services to the Department of Public
Safety by transferring funding, personnel and responsibilities.
8 The bill also clarifies responsibility between the Commissioner
of Public Safety and the Emergency Medical Services' Board and
10 the Director of Maine Emergency Medical Services, authorizes fees
and other funds collected to be deposited into a nonlapsing fund
12 established by the bill to assist in providing emergency medical
services in Maine, includes transition provisions and makes
14 technical corrections.