

# MAINE STATE LEGISLATURE

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DATE: May 7, 2001

(Filing No. S-145)

CRIMINAL JUSTICE

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STATE OF MAINE  
SENATE  
120TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 509, L.D. 1596, Bill, "An Act to Amend the Maine Emergency Medical Services Act of 1982"

Amend the bill by striking out all of section 4.

Further amend the bill in section 5 by striking out the first line (page 2, line 32 in L.D.) and inserting in its place the following:

'Sec. 5. 32 MRSA §§88, sub-§§3 and 4 are enacted to read:'

Further amend the bill in section 5 in subsection 3 in the 4th line (page 2, line 37 in L.D.) by inserting after the following: "registration," the following: 'in accordance with the procedures established in section 90-A and any rules adopted by the board,'

Further amend the bill in section 5 by inserting after subsection 3 the following:

'4. Authority to issue letters of guidance. In addition to authority otherwise conferred, the board or, as delegated, its subcommittee or staff may issue a letter of guidance or concern to an applicant or licensee.

A. Letter of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations and express concern over action or inaction by the licensee or applicant that does not rise to the level of misconduct sufficient to merit disciplinary action. The issuance of a letter of guidance or concern is not a formal proceeding and does not constitute an adverse disciplinary

2        action of any form. Notwithstanding any other provision of  
3        law, a letter of guidance or concern is not confidential.  
4        The board or, as delegated, its subcommittee or staff may  
5        place a letter of guidance or concern, together with any  
6        underlying complaint, report and investigation materials, in  
7        a licensee's or applicant's file for a specified amount of  
8        time, not to exceed 10 years. Any letters, complaints and  
9        materials placed on file may be accessed and considered by  
10       the board, its subcommittee or staff in any subsequent  
11       action commenced against the applicant or licensee within  
12       the specified time frame.'

13       Further amend the bill in section 6 in subsection 1 in the  
14       2nd line (page 3, line 43 in L.D.) by inserting after the  
15       following: "staff" the following: 'L'

16       Further amend the bill in section 6 in subsection 1 in the  
17       3rd line (page 3, line 44 in L.D.) by inserting after the  
18       following: "complaint" the following: 'r'

19       Further amend the bill in section 6 in subsection 1 in the  
20       4th line (page 3, line 45 in L.D.) by inserting after the  
21       following: "board" the following: 'r'

22       Further amend the bill in section 6 in subsection 1 in the  
23       9th to 11th lines (page 3, line 50 and page 4 lines 1 and 2 in  
24       L.D.) by striking out the following: "as otherwise determined  
25       necessary by the board to the fulfillment of its responsibilities  
26       under" and inserting in its place the following: 'as otherwise  
27       determined--necessary-by-the-board-to-the-fulfillment-of-its  
28       responsibilities--under for taking other disciplinary action  
29       pursuant to'

30       Further amend the bill in section 8 in subsection 4 in  
31       paragraph C in the 3rd line (page 5, line 8 in L.D.) by inserting  
32       after the following: "license" the following: 'or imposition of  
33       a civil penalty pursuant to section 88, subsection 3'

34       Further amend the bill in section 8 in subsection 4 in  
35       paragraph D in the 5th line (page 5, line 39 in L.D.) by striking  
36       out the following: "shall" and inserting in its place the  
37       following: 'shall'

38       Further amend the bill in section 9 in subsection 5 by  
39       striking out all of the first 5 lines (page 5, lines 48 to 50 and  
40       page 6, lines 1 and 2 in L.D.) and inserting in their place the  
41       following:

42       '5. Grounds for licensing action. The-board-may-suspend-or  
43       ~~revoke-a-license-pursuant-to-Title-5,--section-10004,--Refusal-to~~

~~issue or renew a license or to modify, suspend or revoke a license of a person, service or vehicle may be predicated on the following grounds:~~ A decision to take action against any applicant or licensee pursuant to this chapter or any rules adopted pursuant to this chapter, including, but not limited to, a decision to impose a civil penalty or to refuse to issue or renew a license or to modify, suspend or revoke a license of a person, service or vehicle, may be predicated on the following grounds:'

Further amend the bill by striking out all of section 10 and inserting in its place the following:

'Sec. 10. 32 MRSA §91-A, as amended by PL 1991, c. 588, §20, is repealed and the following enacted in its place:

**§91-A. Appeals**

Any person or organization aggrieved by the decision of the staff or a subcommittee of the board in waiving the application of any rule, in modifying or refusing to issue or renew a license, in taking any disciplinary action pursuant to this chapter or rules adopted pursuant to this chapter or in the interpretation of this chapter or rules adopted pursuant to this chapter may appeal the decision to the board for a final decision. The staff's or subcommittee's decision stands until the board issues a decision to uphold, modify or overrule the staff's or subcommittee's decision. In the case of nonrenewal, the person or organization must be afforded an opportunity for hearing in accordance with this chapter and the Maine Administrative Procedure Act.

Any person or organization aggrieved by a final decision of the board in waiving the application of any rule, in refusing to issue or renew a license, in taking any disciplinary action pursuant to this chapter or rules adopted pursuant to this chapter or in the interpretation of this chapter or any rule adopted pursuant to this chapter may appeal the board's decision to the Superior Court in accordance with the Title 5, chapter 375, subchapter VII.'

Further amend the bill by striking out all of section 12 and inserting in its place the following:

'Sec. 12. 32 MRSA §92-A, sub-§2, as amended by PL 1991, c. 588, §23, is repealed and the following enacted in its place:

**2. Confidentiality.** All proceedings and records of proceedings concerning the quality assurance activities of an emergency medical services quality assurance committee approved

by the board and all reports, information and records provided to the committee are confidential and may not be obtained by discovery from the committee, the board or its staff.'

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

Further amend the bill by inserting at the end before the summary the following:

#### FISCAL NOTE

The Emergency Medical Services program within the Department of Public Safety will incur some minor additional costs to administer certain disciplinary actions. These costs can be absorbed within the program's existing budgeted resources.

The additional costs associated with the changes to the Maine Emergency Medical Services Act can be absorbed by the Department of the Attorney General utilizing existing budgeted resources.

This bill may increase the number of civil suits filed in the court system. The additional workload and administrative costs associated with the minimal number of new cases filed can be absorbed within the budgeted resources of the Judicial Department. The collection of additional filing fees may also increase General Fund revenue by minor amounts.'

#### SUMMARY

This amendment makes a variety of technical changes to the bill. It also removes section 4 of the bill and adds a new section clarifying that the Emergency Medical Services' Board, its committees or staff may issue letters of guidance or concern to applicants or licensees. The amendment also clarifies provisions relating to confidentiality, release and discoverability of certain information and records and provides that all reports, information and records provided to an emergency medical services quality assurance committee approved by the board are confidential and may not be obtained by discovery from the committee, the board or its staff. It also adds a fiscal note to the bill.