

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 1396

S.P. 563

In Senate, March 28, 2023

**An Act to Clarify the Laws Regarding Delegating Authority for
Services Performed by Emergency Medical Services Personnel or
Others as a Medical Assistant**

Reported by Senator BAILEY of York for the Joint Standing Committee on Health Coverage, Insurance and Financial Services pursuant to Public Law 2021, chapter 587, section 3.

Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

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

2 **Sec. 1. 32 MRSA §85, sub-§7**, as amended by PL 2021, c. 587, §1, is further
3 amended to read:

4 **7. Delegation.** This chapter may not be construed to prohibit a person licensed as an
5 emergency medical services person from rendering medical services in a hospital or other
6 health care facility setting if those services are:

7 A. Rendered in the person's capacity as an employee of the hospital or health care
8 facility;

9 B. Authorized by the hospital or health care facility; and

10 C. Delegated in accordance with section 2594-A ~~or~~, section 2594-E, subsection 4,
11 section 3270-A or section 3270-E, subsection 4.

12 Unless otherwise provided by law, an emergency medical services person licensed under
13 this chapter may not simultaneously act as a licensee under this chapter and an assistant
14 performing medical services delegated by a physician in accordance with section 2594-A
15 or section 3270-A or by a physician assistant in accordance with section 2594-E, subsection
16 4 or section 3270-E, subsection 4.

17 **Sec. 2. 32 MRSA §2594-A, first ¶**, as amended by PL 2019, c. 627, Pt. B, §11, is
18 further amended to read:

19 This chapter may not be construed as prohibiting a physician from delegating to the
20 physician's employees or support staff certain activities relating to medical care and
21 treatment carried out by custom and usage when these activities are under the ~~direct~~ control
22 of the physician; the activities being delegated do not, unless otherwise provided by law,
23 require a license, registration or certification to perform; the physician ensures that the
24 employees or support staff have the appropriate training, education and experience to
25 perform these delegated activities; and the physician ensures that the employees or support
26 staff perform these delegated activities competently and safely. The physician delegating
27 these activities to employees or support staff, to program graduates or to participants in an
28 approved training program is legally liable for the activities of those individuals, and any
29 individual in this relationship is considered the physician's agent. Nothing contained in this
30 section may be construed to apply to registered nurses acting pursuant to chapter 31 and
31 licensed physician assistants acting pursuant to this chapter or chapter 48.

32 **Sec. 3. 32 MRSA §2594-E, sub-§4**, as amended by PL 2019, c. 627, Pt. B, §12, is
33 further amended to read:

34 **4. Delegation by physician assistant.** A physician assistant may delegate to the
35 physician assistant's employees or support staff or members of a health care team, including
36 medical assistants, certain activities relating to medical care and treatment carried out by
37 custom and usage when the activities are under the control of the physician assistant; the
38 activities being delegated do not, unless otherwise provided by law, require a license,
39 registration or certification to perform; the physician assistant ensures that the employees
40 or support staff or members of a health care team have the appropriate training, education
41 and experience to perform these delegated activities; and the physician assistant ensures
42 that the employees or support staff perform these delegated activities competently and
43 safely. The physician assistant who delegates an activity permitted under this subsection is

1 legally liable for the activity performed by an employee, a medical assistant, support staff
2 or a member of a health care team.

3 **Sec. 4. 32 MRSA §3270-A, first ¶**, as amended by PL 2019, c. 627, Pt. B, §15, is
4 further amended to read:

5 This chapter may not be construed as prohibiting a physician or surgeon from
6 delegating to the physician's or surgeon's employees or support staff certain activities
7 relating to medical care and treatment carried out by custom and usage when the activities
8 are under the control of the physician or surgeon; the activities being delegated do not,
9 unless otherwise provided by law, require a license, registration or certification to perform;
10 the physician or surgeon ensures that the employees or support staff have the appropriate
11 training, education and experience to perform these delegated activities; and the physician
12 or surgeon ensures that the employees or support staff perform these delegated activities
13 competently and safely. The physician delegating these activities to employees or support
14 staff, to program graduates or to participants in an approved training program is legally
15 liable for the activities of those individuals, and any individual in this relationship is
16 considered the physician's agent. This section may not be construed to apply to registered
17 nurses acting pursuant to chapter 31 and licensed physician assistants acting pursuant to
18 this chapter and chapter 36.

19 **Sec. 5. 32 MRSA §3270-E, sub-§4**, as amended by PL 2019, c. 627, Pt. B, §16, is
20 further amended to read:

21 **4. Delegation by physician assistant.** A physician assistant may delegate to the
22 physician assistant's employees or support staff or members of a health care team, including
23 medical assistants, certain activities relating to medical care and treatment carried out by
24 custom and usage when the activities are under the control of the physician assistant; the
25 activities being delegated do not, unless otherwise provided by law, require a license,
26 registration or certification to perform; the physician assistant ensures that the employees
27 or support staff or members of a health care team have the appropriate training, education
28 and experience to perform these delegated activities; and the physician assistant ensures
29 that the employees or support staff perform these delegated activities competently and
30 safely. The physician assistant who delegates an activity permitted under this subsection is
31 legally liable for the activity performed by an employee, a medical assistant, support staff
32 or a member of a health care team.

33 SUMMARY

34 This bill proposes statutory changes based on recommendations included in the report
35 made to the Joint Standing Committee on Health Coverage, Insurance and Financial
36 Services pursuant to Public Law 2021, chapter 587. The committee has not taken a position
37 on the substance of this bill. By reporting this bill out the committee is not suggesting and
38 does not intend to suggest that it agrees or disagrees with any aspect of this bill. The
39 committee is reporting the bill out for the sole purpose of having a bill printed that can be
40 referred to the committee for an appropriate public hearing and subsequent processing in
41 the normal course. The committee is taking this action to ensure clarity and transparency
42 in the legislative review of the proposals contained in the bill.

43 The bill makes the following changes.

- 1 1. It clarifies that a licensed emergency medical services person may not
2 simultaneously act as an assistant performing medical services delegated by a physician or
3 physician assistant.
- 4 2. It adds cross-references clarifying the authority of a physician assistant to delegate
5 medical services to a licensed emergency medical services person in a hospital or health
6 care facility.
- 7 3. It clarifies the laws regarding the delegating authority of a physician and a physician
8 assistant.