

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

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NON-EMERGENCY LAWS IS
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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
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1991

PUBLIC LAWS
OF THE
STATE OF MAINE

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4. Cooperate with Government Agencies. Cooperate and enter into agreements, contracts and compacts with any Government Agency, the National Railroad Passenger Corporation, and any other person, public or private.

§7175. Initial Funding.

1. Funds for implementation. The Department is directed to seek and use funds necessary for the implementation of this subchapter, in an amount not less than \$40,000,000, exclusive of any interest or other debt service or expenses which are paid for funds borrowed through bond issues or otherwise.

2. Expenditure of Funds. These funds must be spent first to reinstate, on or before June 1, 1993, regularly scheduled passenger rail service between Portland, Maine and Boston, Massachusetts, and points between. Any funds that exceed those necessary to reinstate service between those points must be spent by the Department to extend, to the extent practicable, regularly scheduled passenger rail service to other points within and outside of this State, which passenger rail service must connect with the service between Portland, Maine and Boston, Massachusetts.

§7176. Additional Funding.

The Department is directed to use all revenues received from the operation of the passenger rail service established pursuant to this subchapter to pay the operational expenses of that service. The Department is directed to seek and use funds necessary to pay all operational expenses of this passenger rail service that are not met by fares and other funds or revenues. For the purposes of this section, "operational expenses" include, but are not limited to, all additional capital expenses necessary to maintain the passenger rail service.

§7177. Federal Funds.

The Department may take all actions consistent with this subchapter that may be necessary to qualify for, accept and disburse any money that the federal government may grant or loan to this State to fund any actions required of the Department under the terms of this subchapter.

§7178. Municipalities.

Any political subdivision of this State may appropriate money and take other actions that may aid in the implementation of this subchapter. The Department is authorized to provide funds, including loans and matching grants, to political subdivisions in order to encourage their participation in implementing this subchapter.

§7179. Reasonable fares.

Fares for the passenger rail service established pursuant to this subchapter must be set at reasonable levels to encourage use of this service.

§7180. Satisfaction of operating deficits.

The Department is directed to obtain all additional funds, through borrowing, revenues or other means, necessary to satisfy operating deficits arising from expenses, including capital expenditures, necessary to ensure the continuation of passenger rail service established pursuant to this subchapter.

§7181. Rules of construction.

This subchapter must be construed liberally to effectuate the purposes of this subchapter. Any amount set forth in this subchapter is intended to represent a minimum amount that may be spent to effect those purposes. The State may appropriate and expend additional amounts for those purposes.

See title page for effective date.

CHAPTER 588

S.P. 709 - L.D. 1890

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:

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

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

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

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

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

10. Department. "Department" means the Department of ~~Human Services~~ Public Safety.

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

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

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

16-A. Maine Emergency Medical Services. "Maine Emergency 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 out the purposes of this chapter.

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

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

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

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

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 375, shall must be conducted by the board, the Director of the Office of Emergency Medical Services director or other staff as delegated through rules by rule or a person in a major policy-influencing position, as defined in Title 5, section 931, who has responsibility over the subject matter of the proposed rule.

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

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

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

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

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

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

(3) The designation of regions within the State;

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

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

In adopting any rule under subparagraph (4) which that requires services which that deliver advanced care to meet a 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.

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

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

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

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

A. The board shall monitor the provision of emergency medical services within the State. The board shall establish, by rule, its goals in monitoring the provision of 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.

B. In each year, and in conjunction with the preparation of the emergency medical services' services report, the 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 made available to the regional

councils so that ~~they~~ the regional councils may propose projects to further particular goals within their own regions.

C. In pursuing these goals, the board may make grants to 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 this chapter; contract for services; cooperate with other departments or agencies; accept and disburse granted funds; or act in other lawful ways as may best serve the public good.

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

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

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

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

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

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

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 level ~~shall~~ is not be contingent upon renewal of a basic emergency medical technician license, but may be as a result of demonstrated competence at the basic level and advanced levels. The demonstrated competence at the basic level for advanced license renewal may be any combination of requirements, as established by the board, to include continuing education requirements, passage of a written or practical test, or both, or the successful passage of a refresher course. A person licensed at the advanced level ~~shall be~~ is considered as being licensed at the basic level.

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

§86. Ambulance services and first responder services

1. Ambulance services and first responder to be licensed. Every ambulance service and first responder service ~~shall~~ must be licensed ~~and shall~~, operate in accordance with the ~~regulations~~ rules adopted for ~~such~~ services under this chapter and ~~shall~~ carry the equipment called for in those ~~regulations~~ rules.

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

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

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

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

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

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

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

3. Air transportation. Any patient transported by air must be flown on a service licensed under Federal

Aviation Regulations, Part 135 or Part 121. In such an instance, the flight ~~shall be~~ is deemed to be an air ambulance; and the patient must be cared for as provided in subsection 2.

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

§87. Ambulances

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

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

§88. Emergency Medical Services' Board

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

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

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

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

termination of board membership as a consequence of irregular attendance. If a board member does not serve a full term of appointment, the Governor shall appoint a successor to fill the vacancy for the remainder of the term. Any board member may be removed by the Governor for cause. ~~The Office of Emergency Medical Services shall provide such staff as the board requires and shall maintain the board's records and files. The board may have a common seal. The board may establish subcommittees as it~~ deems determines appropriate.

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

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

2. Functions. The board shall perform the following functions.

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

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

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.

G. The board shall submit to the ~~Commissioner of Human Services~~ commissioner its budgetary requirements in the same manner as is provided in Title 5, section 1665, ~~and the commissioner shall, in turn, transmit these requirements to the Bureau of the Budget without any revision, alteration or change. The Department of Human Services~~ department shall

serve as the fiscal agent for ~~the board and Office of~~ Maine Emergency Medical Services.

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

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

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

§88-A. Director's duties

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

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

§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~~ 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.

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

§90-A. Disciplinary actions

1. Disciplinary proceedings and sanctions. The board or ~~its~~ staff shall investigate a complaint, on the board's own motion or upon receipt of a written complaint filed with the board, regarding noncompliance with or violation of this chapter or of any rules adopted by the board. Investigation may include an informal conference or a hearing or both before the board or ~~the board's~~ staff to determine whether grounds exist for suspension, revocation or denial of a license or as otherwise ~~deemed~~

determined necessary by the board to the fulfillment of its responsibilities under this chapter. Hearings ~~shall~~ must be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board or ~~department~~ may subpoena witnesses, records and documents, including records and documents maintained by a health care facility or other service organization or person related to the delivery of emergency medical services, in any hearing it conducts.

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

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

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

A. ~~With the consent of the licensee, the~~ The board may enter into a consent agreement ~~which, with the~~ consent of the licensee, that fixes the period and terms of probation ~~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.

B. ~~In consideration for acceptance of a voluntary surrender of the~~ If a licensee voluntarily surrenders a license, the board may negotiate stipulations, ~~including terms and conditions for reinstatement, which necessary to ensure 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.

C. If the board concludes that modification, nonrenewal or nonissuance of ~~the a~~ license is in order, the board shall so notify the applicant-licensee and inform ~~him the applicant-licensee of his the applicant-licensee's~~ right to request an adjudicatory hearing. If the applicant-licensee ~~timely requests such a an adjudicatory hearing in a timely manner, it shall the adjudicatory hearing must~~ be held by the ~~hearings unit of the department board~~ in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV. At the conclusion of the hearing, the ~~hearing officer board~~ shall forward a written finding of facts and recommended decision to the commissioner. 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.

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

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

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

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

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

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

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

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

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

F. ~~Unprofessional conduct. A licensee shall be deemed to have engaged in unprofessional conduct if he violates Violation of any reasonable standard of professional behavior which, conduct or practice that~~ has been established in the practice for which the licensee is licensed;

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

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

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

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

Any person or organization aggrieved by the decision of the board in modifying or refusing to issue or

renew a license or to waive application of a particular rule may appeal the board's decision to the ~~department's hearings unit for a full adjudicatory hearing and commissioner~~ for a final decision ~~by the commissioner~~. 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.

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

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

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

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

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

2. Confidentiality. All proceedings and records of proceedings concerning the quality assurance activities of any emergency medical services quality assurance committee approved by the board are confidential and ~~shall be~~ are exempt from discovery.

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

§93. Immunity

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

1. Report; information. Making any report or other information available to ~~the board~~ Maine Emergency Medical Services under this chapter; and

2. Assisting. Assisting ~~the board or department~~ Maine Emergency Medical Services in carrying out any of their its duties.

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

§93-A. Immunity for supervision and training

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

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

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

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

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

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

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

§94. Sunset

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

Sec. 27. Transition provisions.

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

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

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

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

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

	1991-92	1992-93
HUMAN SERVICES, DEPARTMENT OF		
Emergency Medical Services		
Positions	(-3.0)	(-4.0)
Personal Services	(\$121,235)	(\$164,415)
All Other	(645,448)	(649,068)
Capital Expenditures	(1,228)	(1,300)
Provides for the deappropriation of funds from the Department of Human Services to effect the organizational transfer of Maine Emergency Medical Services to the Department of Public Safety.		
DEPARTMENT OF HUMAN SERVICES		
TOTAL	<u>(\$767,911)</u>	<u>(\$814,783)</u>
PUBLIC SAFETY, DEPARTMENT OF		
Emergency Medical Services		
Positions	(3)	(4)
Personal Services	\$121,235	\$164,415
All Other	645,448	649,068
Capital Expenditures	1,228	1,300

Provides for the transfer of funds to the Department of Public Safety from the Department of Human Services to effect the organizational transfer of Maine Emergency Medical Services to the Department of Public Safety.

DEPARTMENT OF PUBLIC SAFETY		
TOTAL	<u>\$767,911</u>	<u>\$814,783</u>
TOTAL APPROPRIATIONS	<u>\$-0-</u>	<u>\$-0-</u>

Sec. 29. Allocation. The following funds are allocated from Other Special Revenue for the fiscal years ending June 30, 1992 and June 30, 1993 to carry out the purposes of this Act.

	1991-92	1992-93
PUBLIC SAFETY, DEPARTMENT OF		
Emergency Medical Services		
All Other	\$83,000	\$83,000
Provides funds for Maine Emergency Medical Services to license emergency medical services personnel and vehicles, sell emergency medical services patches and protocol books and conduct training and conferences.		

Sec. 30. Allocation. The following funds are allocated from Federal Block Grant funds for the fiscal years ending June 30, 1992 and June 30, 1993 to carry out the purposes of this Act.

	1991-92	1992-93
PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT		
HUMAN SERVICES, DEPARTMENT OF		
Emergency Medical Services		
Positions - Legislative Count	(4.0)	(3.0)
Personal Services	(\$177,039)	(\$154,668)
All Other	(32,741)	(21,494)
Provides for the deallocation of Federal Block Grant funds from the Department of Human Services to effect the organizational transfer of Maine Emergency Medical Services to the Department of Public Safety.		
DEPARTMENT OF HUMAN SERVICES		
TOTAL	<u>(\$209,780)</u>	<u>(\$176,162)</u>

PUBLIC SAFETY, DEPARTMENT OF

Emergency Medical Services

Positions - Legislative Count	(4.0)	(3.0)
Personal Services	\$177,039	\$154,668
All Other	32,741	21,494

Provides for the allocation of Federal Block Grant funds to the Department of Public Safety from the Department of Human Services to effect the organizational transfer of Maine Emergency Medical Services.

DEPARTMENT OF PUBLIC SAFETY		
TOTAL	\$209,780	\$176,162

TOTAL ALLOCATIONS	\$-0-	\$-0-
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See title page for effective date.

CHAPTER 589

H.P. 1301 - L.D. 1882

An Act Concerning Tax Anticipation Notes for Fiscal Year 1991-92 and the Maine Rainy Day Fund

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 90-day period will not terminate until after the beginning of the next fiscal year; and

Whereas, certain provisions of this legislation must be in effect prior to July 1, 1991; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 5 MRSA §150, 2nd ¶, as amended by PL 1991, c. 5, §1, is further amended to read:

The Treasurer of State, with the approval of the Governor may negotiate a temporary loan or loans in anticipation of taxes levied for that fiscal year, but not exceeding a total of that amount of taxes estimated by the Treasurer of State to be collected in the fiscal year in which such temporary loan or loans, or renewal thereof, is made, provided that such temporary loans or renewals thereof ~~shall~~ may not exceed any limitation set forth in the Constitution of Maine, Article IX, Section 14. Such loans may be renewed from time to time as the Treas-

urer of State, with the approval of the Governor, may determine, provided that each loan or renewal thereof ~~shall~~ must be retired not later than the close of the fiscal year in which such loan was originally made and for which ~~was~~ were levied the taxes in anticipation of the collection of which such loan was originally made; and that each such loan or renewal thereof ~~shall~~ must comply with the provisions of this section and the Constitution of Maine, Article IX, Section 14. The Treasurer of State is directed to pay such loan or loans in anticipation of taxes during such year and there is appropriated for any year in which the Treasurer of State and the Governor deem it necessary to borrow in anticipation of taxes the sum of \$30,000,000; except that for fiscal year ~~1990-91~~ 1991-92, the sum may not exceed ~~\$125,000,000~~ \$150,000,000.

Sec. 2. 5 MRSA §1513, sub-§1, as enacted by PL 1985, c. 488, is amended to read:

1. Maine Rainy Day Fund. The State Controller shall at the close of each fiscal year transfer from the unappropriated surplus of the General Fund to the Maine Rainy Day Fund ~~an amount not to exceed~~ 1/2 the excess of total General Fund revenues received over accepted estimates in that fiscal year. No accepted revenue estimate shall may be increased after adjournment of each First Regular Session of the Legislature except as provided. For the first year of the biennium, revenue estimates for the 2nd year of the biennium may be adjusted once during the Second Regular Session of the Legislature. Accepted revenue estimates may be increased for other fiscal periods only if an amount not to exceed 1/2 of the increase is appropriated to the Rainy Day Fund at the same time. The fund shall may not exceed \$25,000,000 which shall 4% of the total General Fund revenues received in the immediately preceding fiscal year and may not lapse, but remain in a continuing carrying account to carry out the purposes of this Act section. No reduction in the fund is necessary in the event the total General Fund revenues received in the immediately preceding fiscal year are less than the total General Fund revenues received in the fiscal year 2 years previous and if the fund is at its 4% limit.

Sec. 3. Tax Anticipation Note Debt Service Account established. The Tax Anticipation Note Debt Service Account is established for the purpose of meeting the State's obligation, including issuance costs, as a result of any tax anticipation notes that may be issued to meet expenditures already incurred by State Government during fiscal year 1991-92. Any earnings in excess of those needed to service this debt must be transferred to the General Fund no later than June 30, 1992.

Sec. 4. Treasurer of State authorization. The Treasurer of State is authorized to set aside sufficient General Fund revenues in fiscal year 1991-92 in the event there are insufficient resources in the debt service account established in section 3 of this Act to meet principal, interest and related payments. The Treasurer of State shall report to the Joint Standing Committee on