

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

—
S.P. 12 - L.D. 5

**An Act Concerning the Reporting of Health Care Information or Records to
the Emergency Medical Services' Board**

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

Whereas, in order to be fully implemented, this legislation requires the adoption of rules by the Emergency Medical Services' Board; and

Whereas, it is important for the board to be able to begin the rule-making process as soon as possible; 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. 32 MRSA §88, sub-§2, ¶K is enacted to read:

K. The board may collect or receive health care information or records, including information or records that identify or permit identification of any patient, for the purpose of monitoring and improving the provision of emergency medical services and health outcomes within the State.

Sec. 2. 32 MRSA §91-B, sub-§1, ¶E is enacted to read:

E. Health care information or records provided to the board under section 88, subsection 2, paragraph K are confidential if the information or records identify or permit the identification of a patient or a member of that patient's family.

Sec. 3. 32 MRSA §91-B, sub-§1, ¶F is enacted to read:

F. Health care information or records provided to the board under section 96 are confidential if the information or records identify or permit the identification of a patient who received emergency medical treatment or a member of that patient's family.

Sec. 4. 32 MRSA §96 is enacted to read:

§96. Monitoring and improving the provision of emergency medical services and health outcomes

For the purpose of monitoring and improving the provision of emergency medical services and health outcomes within the State, the board may request and collect health care information or records, including information or records that identify or permit identification of any patient, concerning individuals who have received emergency medical treatment within the State, except for any information or records identifying a patient, in any format, that include HIV or AIDS status or test results, that relate to abortion, miscarriage, domestic violence or sexual assault or that relate to referral, treatment or services for a behavioral or mental health disorder or substance use disorder.

1. Reporting by hospitals and physicians. Hospitals and physicians shall report health care information or records concerning individuals who have received emergency medical treatment as follows and in accordance with this section and rules adopted by the board.

A. A hospital shall report to the board health care information or records requested by the board, including information or records that identify or permit identification of any patient, concerning an individual under or formerly under that hospital's care who received emergency medical treatment.

B. A physician shall report to the board health care information or records requested by the board, including information or records that identify or permit identification of any patient, concerning an individual under or formerly under that physician's care who received emergency medical treatment.

2. Access to health care information or records through a state-designated statewide health information exchange or direct reporting. A hospital or physician may satisfy the board's request for health care information or records under subsection 1 as follows.

A. A hospital or physician that participates in a state-designated statewide health information exchange as described in Title 22, section 1711-C may satisfy the board's request for health care information or records by authorizing the board to retrieve that hospital's or physician's data from the health information exchange.

B. A hospital or physician that participates in a state-designated statewide health information exchange as described in Title 22, section 1711-C that does not authorize the board to retrieve that hospital's or physician's data from the health information exchange shall provide the health care information or records to the board directly in the manner specified by rule.

3. Health care information and records requested. When requesting health care information or records pursuant to this section and any rules adopted by the board, the board shall request only the minimum amount of information or number of records necessary to fulfill the purposes of this section.

4. No liability for hospital or physician reporting in good faith. A hospital or physician that reports in good faith in accordance with this section is not liable for any civil damages for making the report.

5. Rulemaking. The board shall adopt rules regarding the collection and reporting of health care information and records pursuant to this section, including, but not limited to, the frequency of reporting by hospitals and physicians. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 5. Rulemaking by the Emergency Medical Services' Board. In adopting rules pursuant to the Maine Revised Statutes, Title 32, section 96, subsection 5, the Department of Public Safety, Maine Emergency Medical Services, Emergency Medical Services' Board shall address the following issues:

1. How different quality initiatives are adopted by the board;
2. How providers are notified about the different quality initiatives in subsection 1;
3. How providers communicate their decisions to the board to authorize a state-designated statewide health information exchange as described in Title 22, section 1711-C to provide health care information or records to the board;
4. For providers who authorize a state-designated statewide health information exchange to provide health care information or records to the board, the manner in which a provider may revoke that authorization; and
5. How health care information or records remitted from a state-designated statewide health information exchange to the board and data remitted from the board to any 3rd parties are tracked and reported to providers when data requests are made to the state-designated statewide health information exchange.

The rules must include a requirement that any executed agreements must be made available to providers if any 3rd parties are provided health care information or records under those agreements.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.