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Legislative Document

No. 1489

S.P. 467

In Senate, April 14, 2011

An Act Regarding Regulation of Emergency Medical Services

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator RECTOR of Knox.

Cosponsored by Representative TUTTLE of Sanford and

Senator: SAVIELLO of Franklin, Representatives: CLARKE of Bath, CRAY of Palmyra,
HASKELL of Portland.

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

2 **Sec. 1. 32 MRSA §83, sub-§2**, as amended by PL 1985, c. 730, §§5 and 16, is
3 further amended to read:

4 **2. Advanced emergency medical treatment.** "Advanced emergency medical
5 treatment" means those portions of emergency medical treatment, ~~as defined by the~~
6 ~~board, which may be performed by persons licensed under this chapter only when they~~
7 ~~are acting under the supervision of an appropriate physician and within a system of~~
8 ~~emergency care approved by the board.;~~

9 A. Defined by the board to be advanced; and

10 B. That the board determines may be performed by persons licensed under this
11 chapter within a system of emergency care approved by the board when acting under
12 the supervision of:

13 (1) An appropriate physician; or

14 (2) A physician assistant or nurse practitioner, licensed by the State, and
15 authorized by a hospital to supervise and direct the actions of an emergency
16 medical services person.

17 **Sec. 2. 32 MRSA §83, sub-§3-A**, as amended by PL 1999, c. 182, §4, is repealed.

18 **Sec. 3. 32 MRSA §83, sub-§6**, as amended by PL 2007, c. 274, §4, is further
19 amended to read:

20 **6. Basic emergency medical services person.** "Basic emergency medical services
21 person" means a person licensed to perform basic emergency medical treatment.
22 Licensed first responders, ~~ambulance attendants~~ and basic emergency medical technicians
23 are basic emergency medical services persons.

24 **Sec. 4. 32 MRSA §83, sub-§8**, as amended by PL 1989, c. 857, §63, is further
25 amended to read:

26 **8. Basic emergency medical treatment.** "Basic emergency medical treatment"
27 means those portions of emergency medical treatment, ~~as defined by the board, that may~~
28 ~~be exercised by licensed emergency medical services personnel acting under the~~
29 ~~supervision of an appropriate physician and within a system of emergency medical care~~
30 ~~approved by the board.;~~

31 A. Defined by the board to be basic; and

32 B. That the board determines may be performed by persons licensed under this
33 chapter within a system of emergency care approved by the board when acting under
34 the supervision of:

35 (1) An appropriate physician; or

1 (2) A physician assistant or nurse practitioner, licensed by the State, and
2 authorized by a hospital to supervise and direct the actions of an emergency
3 medical services person.

4 **Sec. 5. 32 MRSA §83, sub-§16-B**, as enacted by PL 1999, c. 182, §6, is amended
5 to read:

6 **16-B. Medical Direction and Practices Board.** "Medical Direction and Practices
7 Board" means the ~~subcommittee~~ of the board consisting of each regional medical
8 director, a representative of the Maine Chapter of the American College of Emergency
9 Medicine Physicians and the statewide emergency medical services medical director.
10 The Medical Direction and Practices Board is responsible for creation, adoption and
11 maintenance of Maine Emergency Medical Services protocols.

12 **Sec. 6. 32 MRSA §84, sub-§1, ¶C**, as amended by PL 2007, c. 274, §8, is further
13 amended to read:

14 C. The board shall appoint a licensed physician as statewide emergency medical
15 services medical director and a licensed physician as statewide assistant emergency
16 medical services medical director. ~~The physician~~ These physicians shall advise
17 Maine Emergency Medical Services and shall carry out the duties assigned to the
18 medical director pursuant to this chapter, or as specified by contract. A person
19 appointed and serving as the statewide emergency medical services medical director
20 or statewide assistant emergency medical services medical director is immune from
21 any civil liability, as are employees of governmental entities under the Maine Tort
22 Claims Act, for acts performed within the scope of the medical director's duties.

23 **Sec. 7. 32 MRSA §84, sub-§1, ¶D**, as amended by PL 2007, c. 274, §9, is further
24 amended to read:

25 D. Rules adopted pursuant to this chapter must include, but are not limited to, the
26 following:

- 27 (1) The composition of regional councils and the process by which they come to
28 be recognized;
- 29 (2) The manner in which regional councils must report their activities and
30 finances and the manner in which those activities must be carried out under this
31 chapter;
- 32 ~~(3) The designation of regions within the State;~~
- 33 (4) The requirements for licensure for all vehicles, persons and services subject
34 to this chapter, including training and testing of personnel; and
- 35 (5) Fees to be charged for licenses under this section.

36 **Sec. 8. 32 MRSA §85, sub-§3**, as amended by PL 2007, c. 274, §§12 and 13, is
37 further amended to read:

38 **3. Minimum requirements for initial licensing.** In setting rules for the initial
39 licensure of emergency medical services persons, the board shall ensure that a person is

1 not licensed to care for patients unless that person's qualifications are at least those
2 specified in this subsection. Any person who meets these conditions is considered to
3 have the credentials and skill demonstrations necessary for licensure to provide
4 emergency medical treatment.

5 A. The person must have completed successfully the training specified in rules
6 adopted by the board pursuant to the Maine Administrative Procedure Act.

7 C. The person must have successfully completed a state ~~written~~ cognitive test for
8 basic emergency medical treatment and a board-approved practical evaluation of
9 emergency medical treatment skills.

10 The board shall obtain criminal history record information containing a record of
11 conviction data ~~from the Maine Criminal Justice Information System~~ for an applicant
12 seeking ~~initial~~ licensure under this subsection. Information obtained pursuant to this
13 subsection is confidential and may be used only to determine suitability for initial
14 issuance of a license to provide emergency medical services. The results of criminal
15 history record checks received by the board are for official use only and may not be
16 disseminated outside the board. The applicant for initial licensure shall pay the expense
17 of obtaining the information required by this subsection.

18 **Sec. 9. 32 MRSA §85, sub-§4, ¶B**, as amended by PL 2007, c. 274, §14, is
19 further amended to read:

20 B. The person must have satisfactorily demonstrated competence in the skills
21 required for the license level. Skill competence may be satisfied by a combination of
22 run report reviews and continuing education training programs conducted in
23 accordance with the rules or by satisfactorily completing the state ~~written~~ cognitive
24 test and a board-approved practical evaluation of emergency medical treatment skills.

25 **Sec. 10. 32 MRSA §85, sub-§5**, as enacted by PL 1997, c. 26, §1 and affected by
26 §2, is repealed.

27 **Sec. 11. 32 MRSA §85-A, sub-§2-A**, as enacted by PL 2007, c. 42, §1, is
28 amended to read:

29 **2-A. Requirement to provide emergency medical dispatch services.** A public
30 safety answering point or other licensed emergency medical dispatch center must provide
31 emergency medical dispatch services on all medical E-9-1-1 calls directly or by
32 transferring the call to another licensed emergency medical dispatch ~~service~~ center.

33 **Sec. 12. 32 MRSA §85-A, sub-§4**, as amended by PL 2007, c. 42, §1, is further
34 amended to read:

35 **4. Licensing actions.** A license issued pursuant to this section is subject to the
36 provisions of sections 90-A and 91-A. Before the board or its subcommittee or staff takes
37 any final action to suspend or revoke ~~a~~ an emergency medical dispatch center license or
38 to refuse to reissue ~~a~~ an emergency medical dispatch center license, the board shall
39 contact the bureau for input on the effect of such an action on the E-9-1-1 system and,
40 notwithstanding section ~~92~~ 91-B, may, to the extent necessary for this purpose, disclose
41 to the bureau information that is designated as confidential under section ~~92~~ 91-B.

1 **Sec. 13. 32 MRSA §87-B, sub-§3**, as enacted by PL 1993, c. 738, Pt. C, §8, is
2 repealed.

3 **Sec. 14. 32 MRSA §88, sub-§2, ¶D**, as amended by PL 1999, c. 182, §12, is
4 further amended to read:

5 D. The board shall specify in rules the criteria that must be met as a precondition to
6 offering an emergency medical services course, refresher course or continuing
7 education course. The board shall work toward developing consistent educational
8 programming in terms of course content, course requirements and quality of
9 instruction. The board shall adopt rules, which are routine technical rules pursuant to
10 Title 5, chapter 375, subchapter ~~H-A~~ 2-A, regarding the requirements for
11 certification, ~~recertification and decertification~~ and licensing of persons engaged in
12 emergency medical services education and training.

13 **Sec. 15. 32 MRSA §88, sub-§3, ¶D**, as enacted by PL 2001, c. 229, §4, is
14 amended to read:

15 D. Impose conditions of probation upon an applicant or licensee. Probation may
16 run for that time period as the board, its subcommittee or staff determines
17 appropriate. Probation may include conditions such as: additional continuing
18 education; medical, psychiatric or mental health consultations or evaluations;
19 mandatory professional or occupational supervision of the applicant or licensee; and
20 other conditions as the board, its subcommittee or staff determines appropriate. Costs
21 incurred in the performance of terms of probation are borne by the applicant or
22 licensee. Failure to comply with the conditions of probation is a ground for
23 disciplinary action against a licensee; ~~or~~

24 **Sec. 16. 32 MRSA §88, sub-§3, ¶E**, as enacted by PL 2001, c. 229, §4, is
25 amended to read:

26 E. Execute a consent agreement that resolves a complaint or investigation without
27 further proceedings. Consent agreements may be entered into only with the consent
28 of the applicant or licensee, the board, its subcommittee or staff and the Department
29 of the Attorney General. Any remedy, penalty or fine or cost recovery that is
30 otherwise available by law, even if only in the jurisdiction of the District Court, may
31 be achieved by consent agreement, including long-term suspension and permanent
32 revocation of a professional license. A consent agreement is not subject to review or
33 appeal and may be modified only by a writing executed by all parties to the original
34 consent agreement. A consent agreement is enforceable by an action in Superior
35 Court; or

36 **Sec. 17. 32 MRSA §88, sub-§3, ¶F** is enacted to read:

37 F. Assess a licensee the costs of investigation and adjudicatory hearings relating to
38 that licensee.

39 **Sec. 18. 32 MRSA §90-B** is enacted to read:

1 **§90-B. Address of applicant**

2 Beginning on January 1, 2012, an applicant for a license or renewal of a license under
3 this chapter shall provide the board with:

4 **1. Public record address.** A contact address, telephone number and e-mail address
5 that the applicant is willing to have treated as a public record, such as a business address,
6 business telephone number and business e-mail address; and

7 **2. Personal address.** The applicant's personal residence address, personal telephone
8 number and personal e-mail address.

9 If the applicant is willing to have the applicant's personal residence address and
10 telephone number and personal e-mail address treated as public records, the applicant
11 shall indicate that in the application and is not required to submit a different address
12 under subsection 1.

13 **Sec. 19. 32 MRSA §91-B** is enacted to read:

14 **§91-B. Confidentiality exceptions**

15 **1. Confidentiality.** Except as otherwise provided in this chapter, all proceedings
16 and records of proceedings concerning the quality assurance activities of an emergency
17 medical services quality assurance committee approved by the board and all reports,
18 information and records provided to the committee are confidential and may not be
19 disclosed or obtained by discovery from the committee, the board or its staff. Quality
20 assurance information may be disclosed to a licensee as part of any board-approved
21 educational or corrective process. All complaints and investigative records of the board
22 or any committee or subcommittee of the board are confidential during the pendency of
23 an investigation and may not be disclosed by the committee, the board or its staff.
24 Information or records that identify or permit identification of any patient that appears in
25 any reports, information or records provided to the board or department for the purposes
26 of investigation are confidential and may not be disclosed by the committee, the board or
27 its staff.

28 **A.** A personal residence address, personal telephone number or personal e-mail
29 address submitted to the board as part of any application under this chapter is
30 confidential and may not be disclosed except as permitted under this section or as
31 otherwise required by law unless the applicant who submitted the information
32 indicated pursuant to section 90-B that the applicant is willing to have the applicant's
33 personal residence address, personal telephone number or personal e-mail address
34 treated as a public record. Personal health information submitted to the board as part
35 of any application under this chapter is confidential and may not be disclosed except
36 as otherwise permitted under this section or otherwise required by law.

37 The board and its committees and staff may disclose personal health information
38 about and the personal residence address and personal telephone number of a licensee
39 or an applicant for a license under this chapter to a government licensing or
40 disciplinary authority or to a health care provider located within or outside this State

1 that requests the information for the purposes of granting, limiting or denying a
2 license or employment to the applicant or licensee.

3 B. Any materials or information submitted to the board in support of an application
4 that are designated as confidential by any other provision of law remain confidential
5 in the possession of the board. Information in any report or record provided to the
6 board pursuant to this chapter that permits identification of a person receiving
7 emergency medical treatment is confidential.

8 C. Information provided to the board under section 87-B is confidential if the
9 information identifies or permits the identification of a trauma patient or a member of
10 that patient's family.

11 D. Examination questions used by the board to fulfill the cognitive testing
12 requirements of this chapter are confidential.

13 **2. Exceptions.** Information designated confidential under subsection 1 becomes a
14 public record or may be released as provided in this subsection.

15 A. Confidential information may be released in an adjudicatory hearing or informal
16 conference before the board or in any subsequent formal proceeding to which the
17 confidential information is relevant.

18 B. Confidential information may be released in a consent agreement or other written
19 settlement when the confidential information constitutes or pertains to the basis of
20 board action.

21 C. Investigative records and complaints become public records upon the conclusion
22 of an investigation unless confidentiality is required by some other provision of law.
23 For purposes of this paragraph, an investigation is concluded when:

24 (1) Notice of an adjudicatory proceeding, as defined under Title 5, chapter 375,
25 subchapter 1, has been issued;

26 (2) A consent agreement has been executed; or

27 (3) A letter of dismissal has been issued or the investigation has otherwise been
28 closed.

29 D. During the pendency of an investigation, a complaint or investigative record may
30 be disclosed:

31 (1) To Maine Emergency Medical Services employees designated by the
32 director;

33 (2) To designated complaint officers of the board;

34 (3) By a Maine Emergency Medical Services employee or complaint officer
35 designated by the board to the extent considered necessary to facilitate the
36 investigation;

37 (4) To other state or federal agencies when the files contain evidence of possible
38 violations of laws enforced by those agencies;

1 (5) By the director, to the extent the director determines such disclosure
2 necessary to avoid imminent and serious harm. The authority of the director to
3 make such a disclosure may not be delegated;

4 (6) When it is determined, in accordance with rules adopted by the department,
5 that confidentiality is no longer warranted due to general public knowledge of the
6 circumstances surrounding the complaint or investigation and when the
7 investigation would not be prejudiced by the disclosure; or

8 (7) To the person investigated on request of that person. The director may refuse
9 to disclose part or all of any investigative information, including the fact of an
10 investigation, when the director determines that disclosure would prejudice the
11 investigation. The authority of the director to make such a determination may not
12 be delegated.

13 E. Data collected by Maine Emergency Medical Services that allows identification of
14 persons receiving emergency medical treatment may be released for purposes of
15 research, public health surveillance and linkage with patient electronic medical
16 records if the release is approved by the board, the Medical Direction and Practices
17 Board and the director. Information that specifically identifies individuals must be
18 removed from the information disclosed pursuant to this paragraph, unless the board,
19 the Medical Direction and Practices Board and the director determine that the release
20 of such information is necessary for the purposes of the research.

21 F. Confidential information may be released in accordance with an order issued on a
22 finding of good cause by a court of competent jurisdiction.

23 G. Confidential information may be released to the Office of the Chief Medical
24 Examiner within the Office of the Attorney General.

25 **3. Violation.** A person who intentionally violates this section commits a civil
26 violation for which a fine of not more than \$1,000 may be adjudged.

27 **Sec. 20. 32 MRSA §92**, as amended by PL 2003, c. 559, §§4 and 5, is repealed.

28 **Sec. 21. 32 MRSA §92-A, sub-§2**, as amended by PL 2003, c. 559, §6, is
29 repealed.

30 **Sec. 22. 32 MRSA §92-B, sub-§4**, as enacted by PL 2007, c. 274, §28, is
31 amended to read:

32 **4. Confidentiality at conclusion of investigation.** ~~Notwithstanding section 92~~
33 Except as provided in section 91-B, information received pursuant to this section remains
34 confidential at the conclusion of an investigation.

35 **Sec. 23. 32 MRSA §95**, as enacted by PL 2007, c. 274, §29, is amended to read:

36 **§95. Authorize to participate**

37 Notwithstanding section ~~92~~ 91-B, Maine Emergency Medical Services is authorized
38 to participate in and share information with the National Emergency Medical Services
39 Information System.

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SUMMARY

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This bill amends the laws relating to emergency medical services. The bill modifies certain definitions, updates some language and consolidates and expands the confidentiality provisions governing the records of the Emergency Medical Services' Board, its committees, subcommittees and staff.

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