SJR 5: Emergency Medical Services
The Evolution of Montana's EMS Laws

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Emergency medical services, as we know them today, conjure up images of ambulances speeding to an accident scene or rushing a patient to a hospital, with trained personnel monitoring medical symptoms and often providing life-saving measures along the way.

But this system of emergency pre-hospital care has evolved only in recent decades, fostered by federal legislation and bolstered largely by financial support from the National Highway Traffic Safety Administration -- an agency created in 1970 to meet the demand for improved traffic-related regulation and services that occurred as more people began traveling longer distances on a growing network of highways.

The development of what is now known as the emergency medical services (EMS) system began primarily in the 1960s. Before then, ambulance service was a luxury offered only by a few hospitals in large cities.[1] The concept of emergency medical response to accidents, injuries, and illnesses arose as the knowledge and use of cardio-pulmonary resuscitation increased[2] and as an increasing number of Americans bought cars and began traveling more extensively. The increase in automobile use led to an increase, as well, in the number of people injured or killed in vehicle crashes.

In 1966, the National Academy of Sciences, National Research Council, published *Accidental Death and Disability: The Neglected Disease of Modern Society*, focusing attention on the number of accidental deaths and injuries and recommending a number of solutions.[3] The booklet noted that 46% of the accidental deaths in 1965 occurred in vehicle accidents and recommended a number of specific steps, including nationally approved training courses for emergency personnel, standards for ambulances and other emergency equipment, adoption of state-level policies for ambulance services, and pilot programs to evaluate the use of air ambulance services in rural areas.[4]

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[1] "Emergency Medical Services in Frontier Areas: Volunteer Community Organizations," *Office of Rural Health Policy, Health Resources and Services Administration,* April 2006 [on-line]; available at http://ruralhealth.hrsa.gov/pub/FrontierEMS.asp; accessed May 18, 2007.

[2] "Future of Emergency Care: Emergency Medical Services at the Crossroads," *Institute of Medicine*, June 2006 [on-line]; available from http://books.nap.edu/catalog.php?record_id=11629; accessed Sept. 10, 2007, and John Erich, "EMS Magazine Celebrating 35 Years of Service," *EMSResponder.com,* Aug. 29, 2007 [on-line]; available at http://www.emsmagazine.com/print/Emergency--Medical-Services/EMS-MAGAZINE-Celebrating-35-Years-of-Service/1$6012; accessed Sept. 10, 2007.

[3] "EMS: Where We've Been and Where We're Going," *National Association of Emergency Medical Technicians* [on-line]; available at http://www.naemt.org/aboutEMSAndCareers/history_of_ems.htm; accessed Aug. 28, 2007.

[4] National Academy of Sciences, National Research Council, *Accidental Death and Disability: The Neglected Disease of Modern Society*, 1966 [on-line]; available from http://book.nap.edu/openbook.php?isbn=POD716; accessed Sept. 11, 2007; p. 35.

That same year, Congress passed the Highway Safety Act of 1966, which required states to create a highway safety program that followed uniform national standards and provided financial assistance for doing so.[5] That law was followed in 1973 with the Emergency Medical Services Systems Act, establishing the first national standards for training and equipment.[6]

While the federal government directed the states to take steps to provide emergency care, it also gave states flexibility in determining how to develop their own systems. Thus services developed in an often patchwork manner, designed to meet the geographical and financial needs of the regions they covered.

Following is a summary of the development of the laws governing EMS in Montana.

The 1960s: Starting Down the Road

Before passage of the national Highway Safety Act of 1966, Montana lawmakers took a few small steps in the early 1960s toward addressing the increasing concerns about traffic safety and the ability to respond to the scene of accidents.

In 1961, the Legislature passed Senate Bill 84, which allowed local governments to establish and maintain an ambulance service or to join forces with other local governments to create a joint service. These services could be established only if 50% of the taxpayers in the area involved petitioned the government to create a service.

In the 1963 legislative session, passage of House Bill 124 gave protection from liability to physicians and surgeons who in good faith provided emergency care without compensation at the scene of an emergency or accident.

On the heels of the Highway Safety Act of 1966, the 1967 Montana Legislature established a highway traffic safety program that encompassed numerous driving-related issues, ranging from driver education and testing to improved vehicle registration and inspection practices and the establishment of emergency services, including *"ambulance services for injured persons."* HB 276 targeted traffic accidents, noting in its purpose section that the public interest would be served by the establishment of a highway traffic safety program to promote *"public safety, health and welfare, and to reduce traffic deaths, injuries and property losses resulting from traffic accidents."* The many activities the traffic safety program was to provide included emergency services that were to encompass *"communications, medical or mechanical assistance, and ambulance service for injured persons."*

HB 276 also created the state Highway Traffic Safety Board to assist the governor in matters of highway safety. HB 276 gave the governor authority to *"secure the full benefits available to this state"* under the new federal law, including federal funds designated for safety activities. The legislation required that 40% of any funds the state received be passed on to local governments for highway safety-related activities that they may want to pursue.

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[5] "Overview: Highway Safety Improvement Programs," *U.S. Department of Transportation, Federal Highway Administration* [on-line]; available from http://safety.fhwa.dot.gov/state_program/hsip/hsip_over.htm; accessed Sept. 11, 2007.

[6] "Emergency Medical Services in Frontier Areas: Volunteer Community Organizations," *Office of Rural Health Policy, Health Resources and Services Administration,* April 2006 [on-line]; available at http://ruralhealth.hrsa.gov/pub/FrontierEMS.asp; accessed May 18, 2007.

Lawmakers that year also approved HB 282, amending the ambulance services statute enacted in 1961 to:

- change the petition requirement for establishing an ambulance service from 50% of the taxpayers to 15% of the registered voters in the area seeking service, and
- specifically allow local governments to levy an additional tax, of up to 1 mill, to fund ambulance services.

The 1970s: A Growing Role for the State and for Emergency Services

While the legislation approved in the 1960s focused primarily on the local provision of ambulance services, lawmakers saw fit in the 1970s to give the state a larger role in the budding area of emergency medical services.

In 1971, the Legislature declared that regulation of ambulance services was in the public interest and enacted what is now Title 50, Chapter 6, Part 3, of the Montana Code Annotated (MCA). The findings and purposes section of SB 159 noted that *"the public welfare requires the establishment of minimum uniform standards and regulations"* for ambulance services and personnel. The bill clearly set out in law provisions for state oversight of the operation of local ambulance services by:

- requiring a state-issued license for ambulance services,
- establishing a licensing fee,
- allowing the state to inspect ambulance services and to cancel a license if it found any violation of state laws or rules, and
- establishing criminal and civil penalties for violations.

In the next few years, ambulance-only services were giving way to new emergency medical services, developed in part because of advances in cardiology and resuscitation sciences[7] and in part because of improved equipment and advanced training provided to medics during the Vietnam War.[8] The federal Emergency Medical Services Systems Act of 1973 established the first national standards for training and equipment.

The following year, Montana lawmakers established state oversight of emergency medical services with passage of HB 971. In allowing for the development of an emergency services program, lawmakers endorsed this language in HB 971:

> *"The repeated loss of persons who die unnecessarily because necessary life-support personnel and equipment are not available to victims of accidents and sudden illness is a tragedy that can and must be eliminated."*

The legislation gave the then-Department of Health and Environmental Sciences the authority to receive and spend federal and state funds for the provision of emergency medical services and instructed the department to cooperate with other agencies involved in similar issues.

And in 1975, the Legislature decided to establish standards for emergency medical technicians (EMTs), by passing HB 72. This bill noted that *"prompt and efficient emergency medical care of*

[7] "EMS: Where We've Been and Where We're Going," *National Association of Emergency Medical Technicians* [on-line]; available at http://www.naemt.org/aboutEMSAndCareers/history_of_ems.htm; accessed Aug. 28, 2007.

[8] "Emergency Medical Services in Frontier Areas: Volunteer Community Organizations," *Office of Rural Health Policy, Health Resources and Services Administration,* April 2006 [on-line]; available at http://ruralhealth.hrsa.gov/pub/FrontierEMS.asp; accessed May 18, 2007.

the sick and injured at the scene and during transport to a health care facility is an important ingredient necessary for reduction of the mortality and morbidity rate during the first critical minutes immediately after an accident or the onset of an emergent condition and that a program for emergency medical technicians is required in order to provide the safest and most efficient delivery of emergency care."

The legislation gave the state authority to adopt rules for, among other things, the training and certification of EMTs. It also provided guidelines on the types of procedures EMTs could carry out, based on the certification level they had achieved. The legislation gave the Board of Medical Examiners oversight of and rulemaking authority for EMT training and certification and for determining the scope of practice allowed for EMTs, based on their level of certification.

By the end of the decade, lawmakers recognized that EMS providers faced some of the same liability issues that other health care providers faced. They amended, through HB 600 in 1979, the liability provisions in 27-1-714, MCA, to include ambulance providers who made less than 25% of their gross annual income from their ambulance service.

The 1980s: Building on the Basics

Laws enacted in the 1980s generally built on the primary tenets established in the creation and regulation of emergency medical services and EMTs.

In 1985, the state became involved in the development of 9-1-1 systems, and in 1989, the Legislature expanded the state's role in regulating emergency services with passage of SB 407. That bill's Statement of Intent noted that emergency services *"have evolved in recent years (such as basic life support, defibrillation, and advanced life support) without minimum standards, rules, or licensing to assure the health and safety of the public."*

SB 407 gave the Department of Health and Environmental Sciences authority to license and make rules for regulating air ambulance services and other types of emergency services, recognizing the variations in the personnel, equipment, and needs of different types of services. The Legislature cautioned that while the department needed to set minimum statewide standards, *"the rules should not be so stringent that the provision of emergency medical care in smaller communities will be made unreasonably difficult or expensive."*

SB 407 brought newer types of air ambulance services under the department's purview, as well as any emergency medical service that provided pre-hospital or hospital-to-hospital emergency transportation or treatment.

But on the national level in the 1980s, the federal funding that had been targeted to services at the state level began to dry up in the face of the federal deficit.[9] The Omnibus Reconciliation Act of 1981 consolidated EMS funding into state block grants for health services.[11]

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[9] "General Information: Overview," *National Registry of Emergency Medical Technicians* [on-line]; available at http://www.nremt.org/about/gen_info_overview.asp; accessed July 27, 2007.

[10] "EMS: Where We've Been and Where We're Going," *National Association of Emergency Medical Technicians* [on-line]; available at http://www.naemt.org/aboutEMSAndCareers/history_of_ems.htm; accessed Aug. 28, 2007.

The 1990s: Local Funding Flexibility and Greater Coordination

Changes to state law in the early 1990s gave local governments more flexibility in funding and providing emergency medical services. Three bills focused on these factors in 1991:

- HB536 amended existing law on fire service areas to allow those districts to provide emergency medical equipment and personnel and to incur indebtedness to purchase emergency medical equipment.
- SB305 added ambulance services to the multi-jurisdictional services that could be provided by local governments. The change meant that ambulance service taxes could be levied on all property owners in the multi-jurisdictional area, not just the city or county in which the service was located.[11]
- HB 738 gave counties, cities, and towns the authority to levy an additional 2 mills, on top of the 1 mill already allowed in law, to support ambulance services, if voters approved the increase. Then-Rep. Jim Elliott sponsored the bill to address the lack of ambulance service in the Plains area, where the hospital had indicated it would no longer take emergency patients if an ambulance service were not available.[11]

That same session, lawmakers also approved HB 938, to grant immunity to physicians and nurses who, working in a volunteer capacity, give medical instructions to EMS personnel, if the instructions are consistent with the state-approved protocols and medical control plan and with the certification or licensure level of the EMS worker to whom the instructions are given.

The Legislature in 1995 took further steps to improve the network of emergency medical care by establishing a statewide trauma care system. The preamble to HB 591 noted that trauma was the leading cause of death and disability for Montanans under the age of 44 and that organized systems of trauma care could reduce the number of injury-related deaths and disabilities.

The bill gave the Department of Health and Environmental Sciences the responsibility to plan, coordinate, and administer a statewide trauma care system that involves all health care facilities and EMS providers in Montana. In doing so, the department was to adopt rules establishing:

- the various levels of trauma facilities and the standards each facility must meet,
- procedures and standards for determining and revoking a facility's trauma designation,
- triage and treatment protocols for pre-hospital emergency care and the transfer of injured persons between health care facilities, and
- requirements for collecting and releasing data on injuries.

Additional changes enacted during this decade included the amendment in 1997 of 10-4-102, MCA, to reflect the development of enhanced 9-1-1 services and passage in 1999 of HB 126, enacting the set of laws establishing a state-authorized automated external defibrillator program. The preamble to HB 126 noted that cardiac arrest caused more than 250,000 deaths each year, while the American Heart Association estimated more than 20,000 deaths could be prevented annually if early defibrillation were more widely available. The Legislature gave the Department of Public Health and Human Services (the successor agency to the Department of Health and Environmental Sciences) authority to regulate the establishment of automated external defibrillators plans by any public agency or private company.

[11] Minutes of the House Local Government Committee, SB 305, March 13, 1991.

[12] Minutes of the House Taxation Committee, HB 738, Feb. 22, 1991.

The 21st Century: Further Refinements to Existing Law

In the current decade, lawmakers have taken steps to include emergency medical services in existing funding streams and make other small changes to current law.

In 2001, the Legislature passed HB 124 to lift the limit on the number of mills that could be levied to support ambulance services and did away with a public vote on the mill levies, giving local governments more freedom to raise money for the ambulance services they provide. Lawmakers also approved HB 56, which allowed local governments to be involved in selling ambulance service insurance, as a means to help fund the service.[11]

In 2005, the Legislature passed SB 301, which allowed taxation for any *"public or governmental purpose"* not specifically prohibited by law, including ambulance services and multi-jurisdictional services that may also include ambulance services.

And lawmakers in 2007 eased some of the provisions of the automated external defibrillator programs with SB 95, eliminating the requirement that a physician supervise the programs and instead giving DPHHS more authority to establish rules for the supervision of the programs.

[13] Minutes of the House Business and Labor Committee, HB 56, Jan. 8, 2001.

Summary of EMS Laws by Date of Passage

Year	Topic	Statute
1961	Local ambulance services--creation and funding	7-34-101 through 7-34-103
1963	Immunity for physicians providing emergency care	27-1-714
1967	Traffic safety program--federal funds and pass through to local governments	61-2-101 through 61-2-104
	Amended requirements for creating local ambulance service and authorized 1 mill levy	7-34-101 and 7-34-102
1971	State regulation of local ambulance services	Title 50, Chapter 6, Part 3
1974	State oversight of EMS/authority to receive and spend funds	Title 50, Chapter 6, Part 1
1975	State certification of emergency medical technicians	Title 50, Chapter 6, Part 2
1979	Immunity extended to volunteer ambulance providers	27-1-714
1985	Development of 9-1-1 system	Most of Title 10, Chapter 4
1989	Further regulation of ambulance services and of emergency medical services	Title 50, Chapter 6, Part 3
1991	Fire service areas may include EMS	7-33-2401 and 7-33-2402
	Ambulance services added to statute on multi-jurisdiction service districts	7-11-1102
	Authority to levy additional 2 mills for ambulance services, with public vote	7-34-102
	Immunity for physicians and nurses who give instruction to EMS personnel in volunteer role	50-6-317
1995	Statewide trauma care system established	Title 50, Chapter 6, Part 4
1997	Changes to reflect development of enhanced 9-1-1	Title 10, Chapter 4
1999	Automated External Defibrillator Program	Title 50, Chapter 6, Part 5
2001	Removal of cap on number of mills levied for ambulance service; removal of vote requirement	7-34-102
	Local governments allowed to provide ambulance insurance for coverage of excess costs	7-34-103 and 33-1-102
2005	Local taxation for any "public or governmental purpose," including ambulance service	7-6-2527
2007	Amendment of Automated External Defibrillator Program requirements	Title 50, Chapter 6, Part 5

Summary of EMS Laws by Topic Area

Topic Area	Statute	Enacted/Revised
Local authority/funding		
Creation and operation of local ambulance services	7-34-101 and 7-34-103	1961/1967/2001
Funding of local ambulance services	7-34-102	1961/1967/1991/2001
Fire service areas may include EMS	7-33-2401 and 7-33-2402	1991
Ambulances in multi-jurisdictional service areas	7-11-1102	1991
Local taxation for public or governmental purposes	7-6-2527	2005
Provisions of ambulance service insurance/exemption from insurance codes	7-34-103/33-1-102	2005
Liability Protection		
Physicians	27-1-714	1963
Volunteer ambulance providers	27-1-714	1979
Physicians and nurses giving instruction to EMS personnel	50-6-317	1991
State Oversight		
Regulation of local ambulance services	Title 50, Chapter 6, Part 3	1971/1989
Oversight of EMS activities	Title 50, Chapter 6, Part 1	1974
Certification of EMTs	Title 50, Chapter 6, Part 2	1975
Statewide Programs		
Traffic Safety Program	61-2-101 through 61-2-104	1967
9-1-1 Program	Title 10, Chapter 4	1985/1997
Statewide Trauma Care System	Title 50, Chapter 6, Part 4	1995
Automated External Defibrillator Program	Title 5, Chapter 6, Part 5	1999/2007

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