



3. While the original time for pre-filing testimony and exhibits in this matter has passed, the filing of this exhibit could not have taken place at that time because the document did not exist until June 27, 1989.

4. The Department of Public Health (the Department) has responsibility for the regulation and licensing of ambulance services in Massachusetts. Under the statutory and regulatory scheme governing the regulation and licensing of ambulances, the Department has primary and central responsibility for enforcement of state regulations that apply to ambulance companies.

While the Mass AG was previously aware of the fact that out-of-state ambulance services were to be used in the SPMC, the Massachusetts Attorney General was not aware that such companies required Massachusetts ambulance service licenses. The responsible personnel in the Department of Public Health did not have their attention directed to the fact that out-of-state companies were to be used in the SPMC until the week of May 20-26, 1989.

At that time the issue arose in connection with the preparation of the testimony of Howard Saxner, a Deputy General Counsel of the Department, on the subject of evacuation of bed buses. That evacuation bed bus testimony when it was initially pre-filed contained no reference to the topic of licensure of out-of-state ambulances. Indeed, the subject of the licensure

of out-of-state ambulances arose in concrete form after this Board's ruling on the Applicants' motion in limine on that pre-filed testimony.

The argument on the motion in limine occurred on May 25, 1989. At that time the Board ruled that Mr. Saxner<sup>1/</sup> would be permitted to testify provided that his testimony was founded on his experience with the procedures and enforcement mechanisms of the Department of Public Health rather than merely on his interpretation of M.G.L. c. 111C. (See Attachment A).

Leslie Greer, an Assistant Attorney General, informed Mr. Saxner of the Board's ruling on or about May 26, 1989 and inquired whether he had knowledge of specific instances of enforcement proceedings about which he could testify. At that time, Mr. Saxner indicated that the most probative enforcement action that he had personal knowledge of was an enforcement proceeding against National Ambulance Company, a New Hampshire ambulance company that had been illegally providing ambulance services at mini bike races in Massachusetts.<sup>2/</sup>

When Mr. Saxner related his experience with National Ambulance, Ms. Greer informed him that the Applicants were also planning to use out-of-state ambulance companies in connection

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<sup>1/</sup> A similar ruling applied to the testimony of Gerald St. Hilaire, Counsel to the Registry of Motor Vehicles.

<sup>2/</sup> Mr. Saxner testified to his involvement with this enforcement action on May 30, 1989.

with the SPMC. On or about May 30, 1989, Mr. Saxner referred the matter to Suzanne Mager, the deputy general counsel at the Department who currently has primary responsibility in the area of ambulance licensure and emergency health services. It was on or about that day that she first learned the out-of-state ambulances were to be used in the SPMC and of the existence of contracts between NHY and out-of-state ambulance companies.

5. Between May 30, 1989 and June 27, 1989, discussions took place between Suzanne Mager, operations personnel in the Department who have responsibility for licensing ambulance services, the attorneys in the Government Bureau of the Mass AG's office and attorneys in the Nuclear Safety Unit of the Massachusetts Attorney General's office about whether to seek enforcement of M.C.L. c.111C and the appropriate way to go about doing so.<sup>3/</sup>

6. On June 27, 1989 after having informed the operations personnel in the Department as to how she intended to proceed, Suzanne Mager sent out the "cease and desist" letter that the Massachusetts Attorney General now seeks to introduce into evidence.

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<sup>3/</sup> Operations personnel at the Department were consulted because they actually perform the service of licensing ambulances and are responsible for maintaining ambulance service records. Attorneys in the Government Bureau were consulted because they would be the attorneys in the Massachusetts Attorney General's office who would file a civil enforcement action in such a proceeding. Attorneys in the Nuclear Safety Unit were consulted because of the impact of such proceeding on the Seabrook case.

7. The cease and desist letter was not intended to harass or intimidate the out-of-state ambulance companies. It is modeled on and, in part taken word for word from, the cease and desist letter that was sent out in the National Ambulance case. Attachment B.

The practice of the Department in sending a cease and desist letter is entirely consistent with the way it proceeded in the National Ambulance case. In the National Ambulance case before the Department requested the Government Bureau of the Massachusetts Attorney General's office to commence enforcement proceedings, the Department wrote a cease and desist letter. Only when the cease and desist letter met with non-compliance did the Department in that case initiate enforcement proceedings. That is precisely the way that the Department has proceeded in this instance.

8. Under the statutory scheme of M.G.L. c. 111C §11 and 12 it is the Department that initiates any enforcement proceeding by:

1. under §11 requesting the Attorney General to enforce compliance with the statute;
2. under section 12 reporting suspected offenses to the Attorney General for investigation and, if appropriate, prosecution. See Attachment C.

Under this scheme, the Massachusetts Attorney General takes action after the Department requests it.

9. The Massachusetts Attorney General is a separate and distinct agency apart from the Department and could not have compelled the Department to commence enforcement proceedings against out-of-state ambulance companies even if the Massachusetts Attorney General had been completely conversant with the Department's regulations regarding such services. While although it is true that the Massachusetts Attorney General could, in theory, have argued about the law to the Board, that argument would not have provided any factual evidence to the Board that the out-of-state ambulance companies would be unavailable to respond to an emergency at Seabrook. Such argument would have been nothing more than legal speculation that such contracts with out-of-state companies are voidable. Such argument would not have provided factual evidence to the Board that the out-of-state ambulance companies would not respond to an emergency at Seabrook.

The first time that such factual evidence was available was June 28, 1989 when the Massachusetts Attorney General received copies of the "cease and desist" letters. To have merely argued that Massachusetts' law posed an obstacle to those contracts would have put the Massachusetts Attorney General in the same posture as the Intervenors in Long Island Lighting Company (Shoreham Nuclear Power Station, Unit 1) ALAB-905, 25 NRC 515 (1988) prior to the state court issuing

its injunction in the zoning case concerning the use and siting of the reception centers. The Appeal Board in ALAB 905, supra at 519, made clear that prior to that point there existed mere speculation on the law, rather than facts upon which one could infer, that New York law made such reception centers unavailable. The first time that the Massachusetts Attorney General received factual evidence similiar to the New York injunction was on June 28, 1989. The Massachusetts Attorney General promptly brought the letters to the attention of the Applicants and Board on June 29, 1989.

10. These letters put the availability of the use of out-of-state ambulances as a resource in the SPMC in doubt. The letters clearly declare the intent of the Department to seek enforcement under M.G.L. c.111C if the out-of-state ambulance companies do not voluntarily cease and desist.<sup>4/</sup> Had the Massachusetts Attorney General waited to receive the actual response of the out-of-state ambulance companies to the Department's letters or, if necessary, court rulings on any enforcement proceeding the Massachusetts Attorney General might have been criticized for delay in submitting evidence to the Board. As it is, the Massachusetts Attorney General has acted as quickly as is reasonably possible.

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4/ While the Applicants may argue that the ability of the Department to actually obtain injunctions is still speculative, if the companies do not voluntarily comply, given the straight forward language of the statutes and regulations in this instance, and the fact that a similiar injunction was obtained in the National Ambulance case, the present situation is not in any way akin to the complex issues that were claimed to be speculative in the Shoreham zoning case.

Wherefore, the Massachusetts Attorney General prays that  
the Board accept into evidence the offered exhibit.

Respectfully submitted,

*Leslie B. Greer*

Leslie B. Greer

Department of the Attorney General

Public Protection Bureau

Nuclear Safety Unit

DATED: June 30, 1989

1 JUDGE SMITH: The Board does not regard this as a  
2 significant health and safety problem. It is a legal  
3 problem that we don't think should occupy a lot of our time.

4 And I think there should be some way to put it to  
5 us on legal papers. Whatever we decide, they can fix it.

6 Do you think the parties can agree to a submission  
7 of law on it? Or are you going to need the actual  
8 experience of your witness? Do you want to check with him  
9 to see if that is necessary? What can you propose other  
10 than parading some people before us who will not give us the  
11 information we need to decide or we will have to decide it  
12 really based upon, I think, our own interpretation?

13 Don't you believe probably the last analysis is  
14 going to be our own interpretation?

15 MS. GREER: I think, in fact, the two people that  
16 are most knowledgeable about this area could, in fact,  
17 assist the Board in making a determination. And that's why  
18 I submitted their testimony on it.

19 JUDGE SMITH: They will already begin with a  
20 burden that they are preparing and offering testimony as  
21 members of the Commonwealth, party to the proceeding, as may  
22 very well be an advisory opinion formulated with the view of  
23 the litigation. That is the burden that they are going to  
24 have.

25 On the other hand, we can read their law. But on

1 the other hand, we do want to know if they have actual  
2 practices which will have some relevance.

3 And that's what it has really boiled down very,  
4 very narrow.

5 MS. GREER: My thought about this is that, they  
6 can be here. I think we now have them scheduled for next  
7 Tuesday afternoon. They can be here on Tuesday afternoon,  
8 and I don't think that their testimony would take a long  
9 time.

10 As a matter of fact, I think it would take more of  
11 the Board's time sorting through all this without their  
12 testimony. And I think, in fact, the most efficient way of  
13 dealing with the issue is having them come in, sit down, and  
14 be available to answer the Board's questions.

15 JUDGE SMITH: Bearing in mind that we are unlikely  
16 to accept their raw pure legal analysis over our own  
17 responsibility.

18 MS. GREER: I understand.

19 JUDGE SMITH: But we are interested in what they  
20 have actually done. What their actual practices have been.

21 I think you ought to bring them in. But I prefer  
22 to see the issue given to us on paper with the law.

23 MS. GREER: I suspect that both Applicants and we  
24 would be submitting proposed findings and conclusions of law  
25 with respect to this issue.

1 JUDGE SMITH: I guess you will.

2 What recommendations can you make, Mr. Cook?

3 MR. COOK: Your Honor, I don't wish to challenge  
4 any ruling of the Board. I would just note that bringing  
5 these witnesses and a cross-examination of these witnesses  
6 will, in fact, take a significant amount of time in that a  
7 discussion of practices -- a discussion of their opinions --  
8 a discussion of the practices that they have used in the  
9 past instead of discussing the use of bed buses, in this  
10 particular situation in the future, will involve extensive  
11 consideration.

12 JUDGE SMITH: I don't believe that has to be the  
13 case. If you tell them in advance, that's what we want to  
14 know about. And if they don't have anything on it, say so.  
15 If they don't.

16 If this is a case of first impression say so, and  
17 we'll just decide it on the law.

18 If it's not, come on in prepared to explain what  
19 analogous experiences have they had.

20 MS. GREER: Okay.

21 JUDGE SMITH: We can do that. It shouldn't take a  
22 lot of time.

23 Bearing in mind, that we do not regard this as an  
24 important issue. Unfortunately, our test is not how  
25 important this issue. We can't use that test. Our test is,

1 is it relevant.

2 I don't think it should take a lot of time. In  
3 fact, we won't allow it to take a lot of time. If they are  
4 not productive right off the bat on examination as to  
5 analogous situations, then we're not going to listen.

6 We are not going to endure evasion or anything  
7 else. We will want to zero right in on analogous practices.

8 Do you want to consult?

9 MR. COOK: Yes. With the Board's permission.

10 (Counsel conferring.)

11 JUDGE SMITH: Mr. Cook?

12 MR. COOK: Yes, Your Honor.

13 The Applicants accept the Board's ruling. And are  
14 simply concerned that they have an opportunity to prepare a  
15 cross-examination. And to the extent that there was any  
16 testimony that went beyond the testimony contained in the  
17 submitted filing in particular with regard to what Your  
18 Honor just said about previous experience and circumstances,  
19 and whether it is an issue of first impression.

20 JUDGE SMITH: That is what I would have examined  
21 it to be an appropriate cross-examination on your part.

22 If we were to accept this testimony as we have, as  
23 to the implications in it that they advise and participate  
24 -- the implication of this testimony is that on a routine  
25 basis they advise their staff and participate on the

1 registry practices and these buses would not make it.

2 You would cross-examine them as to the foundation  
3 of it. And what we are doing now is saying, they better be  
4 prepared to be cross-examined on it. That's the posture  
5 that you are in.

6 MR. COOK: I understand.

7 JUDGE SMITH: If they are not, then we will  
8 revisit whether this testimony should be received or given  
9 any weight.

10 MR. COOK: I understand.

11 JUDGE SMITH: Maybe even stricken, who knows.  
12 We'll see what happens.

13 MS. GREER: In light of all that, do you still  
14 want to proceed with your objection to Barbara Davis as  
15 well?

16 MR. COOK: The Applicants would like to proceed  
17 with the second half of their motion.

18 MS. GREER: Okay.

19 That last ground -- the Applicants' objection to  
20 Barbara Davis' testimony is on the ground of relevancy. And  
21 the relevancy of Barbara Davis' testimony is very simple.  
22 There are two ways -- at least as was submitted. There are  
23 two ways to assess how many vehicles are an adequate number  
24 to evacuate the supine injured from the EPZ.

25 One, is to figure out how many people need to be



BAILUS WALKER, Jr. Ph D. MPH  
Commissioner

The Commonwealth of Massachusetts  
ATTACHMENT B  
Executive Office of Human Services

Department of Public Health

Division of Health Care Quality

Irene R. McManus, M.P.H., Director

150 Tremont Street

Boston 02111

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

April 12, 1985

Daniel E. Lessard  
National Ambulance  
5 Brookfield Road  
Hudson, NH 03051

RE: Violation of M.G.L. Chapter 111C

Dear Mr. Lessard:

This is to notify you that the Department of Public Health has obtained evidence that you are operating an ambulance service in Massachusetts in violation of Massachusetts General Laws, Chapter 111C, Sections 3 and 12.

M.G.L. c111C, s3 provides that "any person who proposes to establish or maintain an ambulance service shall file an application with the Department...." Section 1 of Chapter 111C defines an "ambulance service" as the "business or regular activity, whether for profit or not, of transporting sick, injured, or disabled individuals by ambulance". Section 12 further specifies that "No person shall: (1) establish or maintain an ambulance service without a valid license..."

Similarly, regulations of the Department, 105 CMR 170.205 state that "no person shall establish or operate and maintain an ambulance service without a valid license..." In turn, 105 CMR 170.296 specifies that "an out-of-state ambulance service shall be deemed to be regularly operating in Massachusetts if:

- (1) the service advertises in Massachusetts, or otherwise solicits business in Massachusetts; or
- (2) the service has a contractual agreement with a Massachusetts person to provide ambulance service in Massachusetts".

Daniel E. Lessard

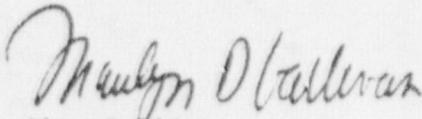
April 12, 1985

M.G.L. c111C, Section 12 further states that "Whoever engages in, aids, abets, causes, or permits any act prohibited under this section shall be punished by a fine of not less than one hundred dollars and not more than five hundred dollars for each offense. A separate and distinct offense shall be deemed to have been committed on each day during which any prohibited act continues after written notice by the Department to the offender. The commissioner shall report each suspected offense to the attorney general for investigation and, if appropriate, prosecution in the courts of the Commonwealth".

Evidence gathered by the Department indicates that National Ambulance Service has been operating in violation of these standards. This information has been reported to the Attorney General's Office for investigation and possible prosecution. In addition, you are hereby notified that said ambulance service may not continue to operate in Massachusetts unless it is licensed in accordance with M.G.L. c111C and related regulations of the Department. Information concerning the licensure process may be obtained from Beverly Dinkins, Division of Health Care Quality, 150 Tremont Street, Boston, Mass. 02111, telephone (617) 727-5864.

Sincerely,

DIVISION OF HEALTH CARE QUALITY



Marilyn Gullivan, Assistant Director  
Survey Operations

MG:esb

cc: Beverly Dinkins, DHCQ  
Frank Keslof, OEMS  
Howard Saxner, Deputy General Counsel  
Michael Migliori, Esq.  
Andy Calisewski, N.E.S.C.  
Cliff Tarp, NEMA Motocross  
Kathleen Laughlin, N.H. OEMS  
Chief William E. Warner, Middleborough Police  
Chief Charles Wolfe, Southwick Police  
Chief Richard Carlson, Charlemont Police

EMERGENCY MEDICAL CARE

111C § 12

Library References

Automobiles §=106.  
C.J.S. Motor Vehicles §§ 96, 127 et seq.

§ 11. Enforcement proceedings; jurisdiction; injunctive relief

The attorney general, at the request of the department, shall, or any ten taxpayers of the commonwealth, may bring a bill in equity in the superior or supreme judicial court to enforce compliance with this chapter or any rule, regulation, or order made under this chapter, whenever it shall appear that any person has engaged in, or is about to engage in an act or practice in violation of this chapter or any rule, regulation, or order made under this chapter, or whenever it shall appear that any person has aided, abetted, caused, or permitted, is aiding, abetting, causing, or permitting, or is about to aid, abet, cause, or permit any such act or practice. Upon a bill brought hereunder, the superior court or supreme judicial court, as the case may be, shall have jurisdiction to grant temporary relief and, upon hearing, a permanent injunction, which shall be mandatory in form, if appropriate; provided, however, that, where a bill is brought by ten taxpayers of the commonwealth, no permanent injunction shall be issued until the department has been permitted to intervene as a party, if it so desires, or to submit an amicus brief to the court. Any ten taxpayers filing a bill in equity hereunder shall serve a copy thereof upon the department on the same day as such filing.

Added by St.1973, c. 948, § 1.

Cross References

Injunctions, see Mass.R.Civ.P. Rule 65.  
Supreme judicial and superior courts, equity jurisdiction, see c. 214, § 1.

Library References

Injunction §=89(5).  
C.J.S. Injunctions §§ 133 to 135.

§ 12. Prohibited acts; penalty; investigation and prosecution of offenses by attorney general

No person shall:

- (1) establish or maintain an ambulance service without a valid license or in violation of the terms of a valid license;
- (2) operate, maintain, or otherwise use any aircraft, boat, motor vehicle, or other means of transportation as an ambulance without a valid certificate of inspection;
- (3) operate an ambulance or to serve as an attendant thereon in violation of section six;

(4) obstruct, bar, or otherwise interfere with an inspection undertaken under authority of this chapter;

(5) knowingly to make an omission of a material fact or a false statement in any application or other document filed with the department; or

(6) violate or fail to observe any requirement of this chapter, or of any rule, regulation, or order under this chapter, which requirement the department has made subject to this section by regulation.

Whoever engages in, aids, abets, causes, or permits any act prohibited under this section shall be punished by a fine of not less than one hundred dollars and not more than five hundred dollars for each offense. A separate and distinct offense shall be deemed to have been committed on each day during which any prohibited act continues after written notice by the department to the offender. The commissioner shall report each suspected offense to the attorney general for investigation and, if appropriate, prosecution in the courts of the commonwealth.

Added by St.1973, c. 948, § 1.

#### Historical Note

St.1973, c. 948, § 4, provided:

"Paragraph (3) of section twelve of chapter one hundred and eleven C of the General Laws, inserted by section one of this act, shall not take effect until July first, nineteen hundred and seventy-seven, provided, that under the authority conferred under section two of said chapter, the department may require prior to July first, nineteen hundred and seventy-six, that no more than two thirds of the operators and attendants

employed by an ambulance service be in compliance with the training requirements of section six of said chapter, and it may require prior to July first, nineteen hundred and seventy-five, that no more than one third of such operators and attendants be in compliance with said training requirements. For purposes of this section, the department may treat classes of operators and attendants separately in the event that it establishes different training requirements for each class."

#### Code of Massachusetts Regulations

Ambulances and ambulance services, violations of regulations, criminal sanctions, see 105 CMR 173.890.

### § 13. Liability of doctors, nurses, hospitals, ambulance operators and attendants

No physician duly registered under the provisions of sections two, two A, or nine of chapter one hundred and twelve, and no nurse duly registered under the provisions of section seventy-four or section seventy-six of said chapter, and no hospital shall be liable in a suit for damages as a result of acts or omissions related to advice, consultation or orders given in good faith to ambulance operators and attendants who are qualified under section six, and are acting on behalf of an ambulance service duly licensed under section three, by radio, telephone or other remote means of communication under emergency conditions and prior to



Michael S. Dukakis  
Governor

Philip W. Johnston  
Secretary

Deborah Prothrow-Stith, M.D.  
Commissioner

Exhibit

*The Commonwealth of Massachusetts*  
*Executive Office of Human Services*  
*Department of Public Health*

*150 Tremont Street*

*Boston 02111*

*(617) 727-2700*

OFFICE OF GENERAL COUNSEL  
Ninth Floor 727-2665

June 27, 1989

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED P166443573

Mr. Donald Carroll  
Chief of Service  
MEDEC Ambulance, Inc.  
P.O. Box 8108  
Portland, ME 04104

Dear Mr. Carroll:

It has come to the attention of the Massachusetts Department of Public Health ("the Department") that your company has entered into a contract with Seabrook Joint Owners to provide ambulance services in the Commonwealth of Massachusetts ("the Commonwealth"). The Department has responsibility for regulating and licensing ambulance services in the Commonwealth. The Department's records show that your company does not have a Massachusetts ambulance service license, although such license is required as the result of the terms of your contract with Seabrook Joint Owners.

The Massachusetts statute which governs ambulance services is Massachusetts General Laws, chapter 111C. M.G.L. c. 111C, §2 provides for the Department's promulgation of regulations to implement the terms of the statute; these regulations can be found at 105 Code of Massachusetts Regulations §170.000 et seq.

105 CMR §170.296(B) provides that:

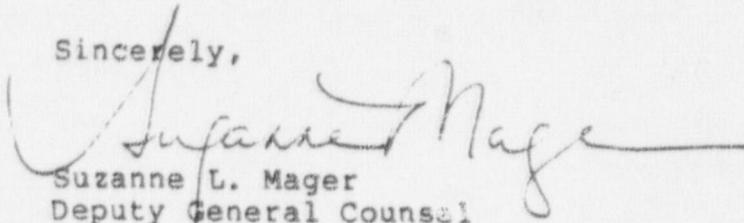
No ambulance service shall regularly operate in Massachusetts unless the ambulance service is licensed in accordance with the provisions set forth in these regulations. An out-of-state ambulance service shall be deemed to be regularly operating in Massachusetts if...the service has a contractual agreement to provide ambulance service in Massachusetts...." (Emphasis supplied)

M.G.L. c. 111C, §11 provides for a permanent injunction "whenever it shall appear that any person...is about to engage in an act or practice in violation of this chapter or any rule, regulation, or order made under this chapter...." In addition, M.G.L. c. 111C, §12 provides criminal sanctions for an ambulance service which "violate[s] or fail[s] to observe any requirement of this chapter, or of any rule, regulation, or order under this chapter, which requirement the department has made subject to this section by regulation."

You must cease and desist from your commitments under your contract with Seabrook Joint Owners until you obtain a valid Massachusetts ambulance service license. Please confirm in writing within five (5) days of receipt of this letter that you have terminated your commitments under the aforementioned contract and that you will not renew them until you obtain a Massachusetts license, in the event your firm is able to qualify for such license.

If you do not respond with five (5) days, the Department will be forced to assume that you intend to continue with your current violation of law, and the Department will be obliged to pursue enforcement procedures.

Sincerely,



Suzanne L. Mager  
Deputy General Counsel

cc: Peter Sacks, AG (Gov't Bur.)  
Priscilla Plato, DHCQ  
Joel Watson, DHCQ  
Margery Eramo, DHCQ  
Frank Keslof, OEMS  
Bruce Alexander, OEMS

E31s



*The Commonwealth of Massachusetts*  
*Executive Office of Human Services*  
*Department of Public Health*

*150 Tremont Street*

*Boston 02111*

*(617) 727-2700*

Michael S. Dukakis  
Governor

Philip W. Johnston  
Secretary

Deborah Prothrow-Stith, M.D.  
Commissioner

OFFICE OF GENERAL COUNSEL  
Ninth Floor 727-2665

June 27, 1989

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED P166443574

Mr. Christopher Stawasz  
Director/Operations Manager  
Rockingham Regional Ambulance, Inc.  
227 Main Street  
Nashua, NH 03060

Dear Mr. Stawasz:

It has come to the attention of the Massachusetts Department of Public Health ("the Department") that your company has entered into a contract with Seabrook Joint Owners to provide ambulance services in the Commonwealth of Massachusetts ("the Commonwealth"). The Department has responsibility for regulating and licensing ambulance services in the Commonwealth. The Department's records show that your company does not have a Massachusetts ambulance service license, although such license is required as the result of the terms of your contract with Seabrook Joint Owners.

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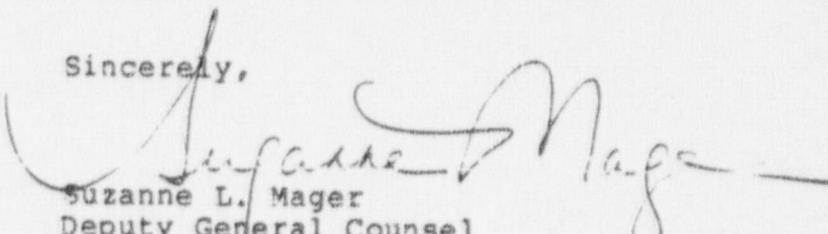
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You must cease and desist from your commitments under your contract with Seabrook Joint Owners until you obtain a valid Massachusetts ambulance service license. Please confirm in writing within five (5) days of receipt of this letter that you have terminated your commitments under the aforementioned contract and that you will not renew them until you obtain a Massachusetts license, in the event your firm is able to qualify for such license.

If you do not respond with five (5) days, the Department will be forced to assume that you intend to continue with your current violation of law, and the Department will be obliged to pursue enforcement procedures.

Sincerely,

  
Suzanne L. Mager  
Deputy General Counsel

cc: Peter Sacks, AG (Gov't Bur.)  
Priscilla Plato, DHCQ  
Joel Watson, DHCQ  
Margery Bruno, DHCQ  
Frank Keslof, OEMS  
Bruce Alexander, OEMS

E31s



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*The Commonwealth of Massachusetts*  
*Executive Office of Human Services*  
*Department of Public Health*

*150 Tremont Street*

*Boston 02111*

*(617) 727-2700*

OFFICE OF GENERAL COUNSEL  
Ninth Floor 727-2665

June 27, 1989

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED P166443575

Derek's Ambulance Service  
915 Holt Avenue Suite 6  
Manchester, NH 03103

Dear Madam or Sir:

It has come to the attention of the Massachusetts Department of Public Health ("the Department") that your company has entered into a contract with Seabrook Joint Owners to provide ambulance services in the Commonwealth of Massachusetts ("the Commonwealth"). The Department has responsibility for regulating and licensing ambulance services in the Commonwealth. The Department's records show that your company does not have a Massachusetts ambulance service license, although such license is required as the result of the terms of your contract with Seabrook Joint Owners.

The Massachusetts statute which governs ambulance services is Massachusetts General Laws, chapter 111C. M.G.L. c. 111C, §2 provides for the Department's promulgation of regulations to implement the terms of the statute; these regulations can be found at 105 Code of Massachusetts Regulations §170.000 et seq.

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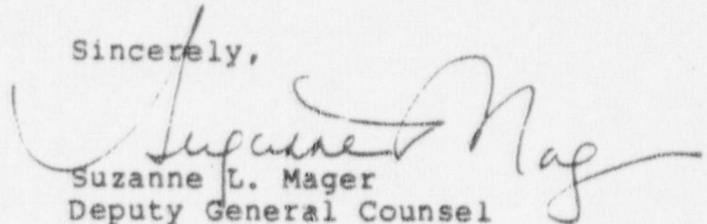
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M.G.L. c. 111C, §11 provides for a permanent injunction "whenever it shall appear that any person...is about to engage in an act or practice in violation of this chapter or any rule, regulation, or order made under this chapter...." In addition, M.G.L. c. 111C, §1 provides criminal sanctions for an ambulance service which "violate[s] or fail[s] to observe any requirement of this chapter, or of any rule, regulation, or order under this chapter, which requirement the department has made subject to this section by regulation."

You must cease and desist from your commitments under your contract with Seabrook Joint Owners until you obtain a valid Massachusetts ambulance service license. Please confirm in writing within five (5) days of receipt of this letter that you have terminated your commitments under the aforementioned contract and that you will not renew them until you obtain a Massachusetts license, in the event your firm is able to qualify for such license.

If you do not respond with five (5) days, the Department will be forced to assume that you intend to continue with your current violation of law, and the Department will be obliged to pursue enforcement procedures.

Sincerely,



Suzanne L. Mager  
Deputy General Counsel

cc: Peter Sacks, AG (Gov't Bur.)  
Priscilla Plato, DHCQ  
Joel Watson, DHCQ  
Margery Eramo, DHCQ  
Frank Keslof, OEMS  
Bruce Alexander, CEMS

E31s



*The Commonwealth of Massachusetts*  
*Executive Office of Human Services*  
*Department of Public Health*

Michael S. Dukakis  
Governor

Philip W. Johnston  
Secretary

Deborah Prothro-Stith, M.D.  
Commissioner

*150 Tremont Street*

*Boston 02111*

*(617) 727-2700*

OFFICE OF GENERAL COUNSEL  
Ninth Floor 727-2665

June 27, 1989

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED P166443576

Mr. Leo Bouchard  
Chief of Service  
B & L Ambulance and Rescue  
P.O.Box 8292  
Portland, ME 04104

Dear Mr. Bouchard:

It has come to the attention of the Massachusetts Department of Public Health ("the Department") that your company has entered into a contract with Seabrook Joint Owners to provide ambulance services in the Commonwealth of Massachusetts ("the Commonwealth"). The Department has responsibility for regulating and licensing ambulance services in the Commonwealth. The Department's records show that your company does not have a Massachusetts ambulance service license, although such license is required as the result of the terms of your contract with Seabrook Joint Owners.

The Massachusetts statute which governs ambulance services is Massachusetts General Laws, chapter 111C. M.G.L. c. 111C, §2 provides for the Department's promulgation of regulations to implement the terms of the statute; these regulations can be found at 105 Code of Massachusetts Regulations §170.000 et seq.

105 CMR §170.296(B) provides that:

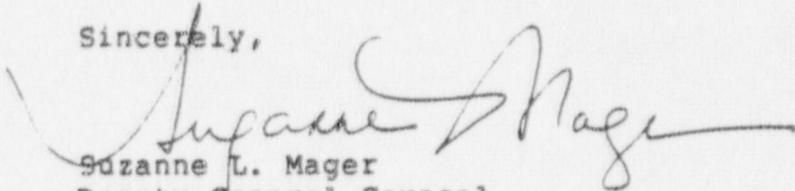
No ambulance service shall regularly operate in Massachusetts unless the ambulance service is licensed in accordance with the provisions set forth in these regulations. An out-of-state ambulance service shall be deemed to be regularly operating in Massachusetts if...the service has a contractual agreement to provide ambulance service in Massachusetts...." (Emphasis supplied)

M.G.L. c. 111C, §11 provides for a permanent injunction "whenever it shall appear that any person...is about to engage in an act or practice in violation of this chapter or any rule, regulation, or order made under this chapter...." In addition, M.G.L. c. 111C, §12 provides criminal sanctions for an ambulance service which "violate[s] or fail[s] to observe any requirement of this chapter, or of any rule, regulation, or order under this chapter, which requirement the department has made subject to this section by regulation."

You must cease and desist from your commitments under your contract with Seabrook Joint Owners until you obtain a valid Massachusetts ambulance service license. Please confirm in writing within five (5) days of receipt of this letter that you have terminated your commitments under the aforementioned contract and that you will not renew them until you obtain a Massachusetts license, in the event your firm is able to qualify for such license.

If you do not respond with five (5) days, the Department will be forced to assume that you intend to continue with your current violation of law, and the Department will be obliged to pursue enforcement procedures.

Sincerely,

  
Suzanne L. Mager  
Deputy General Counsel

cc: Peter Sacks, AG (Gov't Bur.)  
Priscilla Plato, DHCQ  
Joel Watson, DHCQ  
Margery Eramo, DHCQ  
Frank Keslof, OEMS  
Bruce Alexander, OEMS

DOCKETED  
USNRC

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

'89 JUL -5 A10:37

ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

Before the Administrative Judges:

Ivan W. Smith, Chairman  
Dr. Richard F. Cole  
Kenneth A. McCollom

In the Matter of )

PUBLIC SERVICE COMPANY )  
OF NEW HAMPSHIRE, ET AL. )

(Seabrook Station, Units 1 and 2) )

) Docket Nos. 50-443-OL  
) 50-444-OL  
) (Off-Site EP)

) June 30, 1989  
)

CERTIFICATE OF SERVICE

I, Leslie B. Greer, hereby certify that on June 30, 1989, I made service of REBUTTAL TESTIMONY OF DR. THOMAS J. ADLER ON BEHALF OF JAMES M. SHANNON, ATTORNEY GENERAL FOR THE COMMONWEALTH OF MASSACHUSETTS, CONCERNING INTERACTION OF COMMUTER FLOW AND EVACUATION TRAFFIC FLOW WITHIN THE SEABROOK EPZ and MOTION FOR THE BOARD TO ACCEPT AN EXHIBIT via Federal Express as indicated by [\*] and by First Class Mail on June 30, 1989 to:

\*Ivan W. Smith, Chairman  
Atomic Safety & Licensing Board  
U.S. Nuclear Regulatory  
Commission  
East West Towers Building  
4350 East West Highway  
Bethesda, MD 20814

\*Kenneth A. McCollom  
1107 W. Knapp St.  
Stillwater, OK 74075  
Docketing and Service  
U.S. Nuclear Regulatory  
Commission  
Washington, DC 20555

\*Dr. Richard F. Cole  
Atomic Safety & Licensing Board  
U.S. Nuclear Regulatory Commission  
East West Towers Building  
4350 East West Highway  
Bethesda, MD 20814

\*Robert R. Pierce, Esq.  
Atomic Safety & Licensing Board  
U.S. Nuclear Regulatory Commission  
East West Towers Building  
4350 East West Highway  
Bethesda, MD 20814

H. Joseph Flynn, Esq.  
Assistant General Counsel  
Office of General Counsel  
Federal Emergency Management  
Agency  
500 C Street, S.W.  
Washington, DC 20472

Atomic Safety & Licensing  
Appeal Board  
U.S. Nuclear Regulatory  
Commission  
Washington, DC 20555

Atomic Safety & Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Charles P. Graham, Esq.  
Murphy & Graham  
33 Low Street  
Newburyport, MA 01950

Judith H. Mizner, Esq.  
79 State Street  
2nd Floor  
Newburyport, MA 01950

Dianne Curran, Esq.  
Harmon, Curran, & Towsley  
Suite 430  
2001 S Street, N.W.  
Washington, DC 20008

Thomas G. Dignan, Jr., Esq.  
Katherine Selleck, Esq.  
Ropes & Gray  
One International Place  
Boston, MA 02110

Sherwin E. Turk, Esq.  
U.S. Nuclear Regulatory  
Commission  
Office of the General Counsel  
15th Floor  
11555 Rockville Pike  
Rockville, MD 20852

Robert A. Backus, Esq.  
Backus, Meyer & Solomon  
116 Lowell Street  
P.O. Box 516  
Manchester, NH 03106

Jane Doughty  
Seacoast Anti-Pollution League  
5 Market Street  
Portsmouth, NH 03801

Barbara St. Andre, Esq.  
Kopelman & Paige, P.C.  
77 Franklin Street  
Boston, MA 02110

R. Scott Hill-Whilton, Esq.  
Lagoulis, Hill-Whilton  
& Rotondi  
79 State Street  
Newburyport, MA 01950

Ashod N. Amirian, Esq.  
145 South Main Street  
P.O. Box 38  
Bradford, MA 01835

Senator Gordon J. Humphrey  
U.S. Senate  
Washington, DC 20510  
(Attn: Tom Burack)

John P. Arnold, Attorney General  
Office of the Attorney General  
25 Capitol Street  
Concord, NH 03301

William S. Lord Board of Selectmen  
Town Hall - Friend Street  
Amesbury, MA 01913

Senator Gordon J. Humphrey  
One Eagle Square, Suite 507  
Concord, NH 03301  
(Attn: Herb Boynton)

Phillip Ahrens, Esq.  
Assistant Attorney General  
Department of the Attorney  
General  
Augusta, ME 04333

Richard Donovan  
FEMA Region 10  
130 228th Street, S.W.  
Federal Regional Center  
Bothell, WA 98021-9796

COMMONWEALTH OF MASSACHUSETTS

JAMES M. SHANNON  
ATTORNEY GENERAL

*Leslie B. Greer*

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Leslie B. Greer  
Assistant Attorney General  
Nuclear Safety Unit  
Department of the Attorney General  
One Ashburton Place  
Boston, MA 02108-1698  
(617) 727-2200

DATED: June 30, 1989