WEST VIRGINIA CODE CHAPTER 16 ARTICLE 4C

WV Legislature

§16-4C-1. Short title.

This article shall be known as the "Emergency Medical Services Act of 1996".

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§16-4C-2. Purposes of article.

The Legislature finds and declares: (1) That the safe and efficient operation of life-saving and life-preserving emergency medical service to meet the needs of citizens of this state is a matter of general public interest and concern; (2) to ensure the provision of adequate emergency medical services within this state for the protection of the public health, safety and welfare, it is imperative that minimum standards for emergency medical service personnel be established and enforced by the state; (3) that emergency medical service personnel should meet minimum training standards promulgated by the commissioner; (4) that it is the public policy of this state to enact legislation to carry out these purposes and comply with minimum standards for emergency medical service personnel as specified herein; (5) that any patient who receives emergency medical service and who is unable to consent thereto should be liable for the reasonable cost of such service; and (6) that it is the public policy of this state to encourage emergency medical service providers to do those things necessary to carry out the powers conferred in this article unless otherwise forbidden by law.

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§16-4C-3. Definitions.

As used in this article, unless the context clearly requires a different meaning:

(a) "Ambulance" means any privately, publicly-owned vehicle, or aircraft which is designed, constructed, or modified; equipped or maintained; and operated for the transportation of patients, including, but not limited to, emergency medical services vehicles; rotary and fixed wing air ambulances; gsa kkk-A-1822 federal standard type I, type II, and type III vehicles; and specialized multipatient medical transport vehicles operated by an emergency medical services agency;

(b)(1) "Alternative destination" means a lower-acuity facility that provides medical services, including without limitation:

(A) A federally-qualified health center;

(B) An urgent care center;

(C) A rural health clinic;

(D) A physician office or medical clinic as selected by the patient; and

(E) A behavioral or mental health care facility including, without limitation, a crisis stabilization unit.

(2) "Alternative destination" does not include a:

(A) Critical access hospital;

(B) Dialysis center;

(C) Hospital;

(D) Private residence; or

(E) Skilled nursing facility.

(c) "Commissioner" means the Commissioner of the Bureau for Public Health;

(d) "Council" means the Emergency Medical Services Advisory Council created pursuant to this article;

(e) "Director" means the Director of the Office of Emergency Medical Services;

(f) "Emergency Medical Services" means all services set forth in Public Law 93-154 The Emergency Medical Services Systems Act of 1973 and those included in and made a part of the emergency medical services plan of the Department of Health inclusive of, but not

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limited to, responding to the medical needs of an individual to prevent the loss of life or aggravation of illness or injury;

(g) "Emergency medical services agency" means any agency licensed under §16-4C-6a of this code to provide emergency medical services;

(h) "Emergency medical services personnel" means any person certified by the commissioner to provide emergency medical services as set forth by legislative rule;

(i) "Emergency medical services provider" means any authority, person, corporation, partnership, or other entity, public or private, which owns or operates a licensed emergency medical services agency providing emergency medical services in this state;

(j) "Governing body" has the meanings ascribed to it as applied to a municipality in §8-1-2(b)(1) of this code;

(k) "Line officer" means the emergency medical services personnel, present at the scene of an accident, injury, or illness, who has taken the responsibility for patient care;

(l) "Medical command" means the issuing of orders by a physician from a medical facility to emergency medical services personnel for the purpose of providing appropriate patient care;

(m) "Municipality" has the meaning ascribed to it in §8-1-2(a)(1) of this code;

(n) "Patient" means any person who is a recipient of the services provided by emergency medical services;

(o) "A rural health clinic" means an outpatient care facility that provides rural health services, such as primary care and routine laboratory services, to rural and often underserved communities;

(p) "Service reciprocity" means the provision of emergency medical services to citizens of this state by emergency medical services personnel certified to render those services by a neighboring state;

(q) "Small emergency medical services provider" means any emergency medical services provider which is made up of less than 20 emergency medical services personnel; and

(r) "Specialized multipatient medical transport" means a type of ambulance transport provided for patients with medical needs greater than those of the average population, which may require the presence of a trained emergency medical technician during the transport of the patient: *Provided*, That the requirement of "greater medical need" may not prohibit the transportation of a patient whose need is preventive in nature.

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§16-4C-4. Office of Emergency Medical Services created; requiring appointment of a Director of the Office of Emergency Medical Services; staffing.

(a) There is created under the Commissioner of the Bureau of Public Health an office to be known as the Office of Emergency Medical Services. A Director of the Office of Emergency Medical Services shall be appointed by the Secretary of the Department of Health to manage the office in a manner consistent with the purposes of this article. The director shall have experience in the delivery and administration of emergency medical services and related pre-hospital care. The director shall serve at the will and pleasure of the secretary and shall not be actively engaged or employed in any other business, vocation, or employment, serving full time as the Director of the Office of Emergency Medical Services.

(b) The commissioner may employ any technical, clerical, stenographic, and other personnel as may be necessary to carry out the purposes of this article. The personnel may be paid from funds appropriated therefor or from other funds as may be made available for carrying out the purposes of this article.

(c) The Office of Emergency Medical Services, as created by former §16-4D-4 of this code, shall continue in existence as the Office of Emergency Medical Services established by this section.

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§16-4C-5. Emergency Medical Services Advisory Council; duties; composition; appointment; meetings; compensation and expenses.

(a) The Emergency Medical Services Advisory Council, created and established by former §16-4C-7 of this code, is continued for the purpose of developing, with the commissioner, standards for emergency medical services personnel and for the purpose of providing advice to the Office of Emergency Medical Services and the commissioner with respect to reviewing and making recommendations for, and providing assistance to, the establishment and maintenance of adequate emergency medical services for all portions of this state.

(b) The council shall advise the commissioner in all matters pertaining to his or her duties and functions in relation to carrying out the purposes of this article.

(c) The council shall review any rule proposed by the commissioner for legislative approval as provided for in §16-4C-6(a) of this code. After reviewing the legislative rule, the Emergency Medical Services Advisory Council shall provide a recommendation to the Legislative Rule-Making Review Committee that the Legislature:

(1) Authorize the promulgation of the legislative rule;

(2) Authorize the promulgation of part of the legislative rule;

(3) Authorize the promulgation of the legislative rule with certain amendments;

(4) Recommend that the proposed rule be withdrawn; or

(5) Reject the proposed rule.

(d) The council shall be composed of 18 members appointed by the Governor by and with the advice and consent of the Senate. The Mountain State Emergency Medical Services Association shall submit to the Governor a list of six names of representatives from its association and a list of three names shall be submitted to the Governor of representatives of their respective organizations by the County Commissioners' Association of West Virginia, the West Virginia State Firemen's Association, the West Virginia Hospital Association, the West Virginia Chapter of the American College of Emergency Physicians, the West Virginia Emergency Medical Services Administrators Association, the West Virginia Emergency Medical Services Coalition, the Ambulance Association of West Virginia, and the State Department of Education. The Governor shall appoint, from the respective lists submitted, two persons who represent the Mountain State Emergency Medical Services Association, one of whom shall be a paramedic and one of whom shall be an emergency medical technician-basic; and one person from the County Commissioners' Association of West Virginia, the West Virginia State Firemen's Association, the West Virginia Hospital Association, the West Virginia Chapter of the American College of Emergency Physicians, the West Virginia Emergency Medical Services Administrators Association, the West Virginia Emergency Medical Services Coalition, the Ambulance Association of West Virginia, and the

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State Department of Education. In addition, the Governor shall appoint the following:

(1) One person to represent emergency medical services providers operating within the state;

(2) One person to represent small emergency medical services providers operating within this state;

(3) One person to represent emergency medical services training officers or representatives;

(4) Two people to represent emergency medical services supervisors or administrators; and

(5) Three people to represent the general public who serve as voting members.

(e) Nine members shall be appointed from each congressional district.

(f) Each term is to be for three years, and no member may serve more than four consecutive terms.

(g) The council shall choose its own chairperson and meet at the call of the commissioner at least twice a year.

(h) The members of the council shall receive compensation and expense reimbursement in an amount not to exceed the same compensation and expense reimbursement as is paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law for each day, or substantial portion thereof, engaged in the performance of official duties.

WV Legislature

§16-4C-5a.

Repealed.

Acts, 2010 Reg. Sess., Ch. 80.

WV Legislature

§16-4C-6. Powers and duties of secretary.

The secretary has the following powers and duties:

(a) To propose rules for legislative approval, in consultation with the state health officer, in accordance with the provisions of §29A-3-1 *et seq*. of this code: *Provided*, That the rules have been submitted at least 30 days in advance for review by the Emergency Medical Services Advisory Council, who may act only in the presence of a quorum. The rules may include:

(1) Standards and requirements for certification and recertification of emergency medical service personnel, including, but not limited to:

(A) Age, training, testing, and continuing education;

(B) Procedures for certification and recertification, and for denying, suspending, revoking, reinstating, and limiting a certification or recertification;

(C) Levels of certification and the scopes of practice for each level;

(D) Standards of conduct; and

(E) Causes for disciplinary action and sanctions which may be imposed.

(2) Standards and requirements for licensure and licensure renewals of emergency medical service agencies, including:

(A) Operational standards, levels of service, personnel qualifications and training, communications, public access, records management, reporting requirements, medical direction, quality assurance and review, and other requirements necessary for safe and efficient operation;

(B) Inspection standards and establishment of improvement periods to ensure maintenance of the standards;

(C) Fee schedules for licensure, renewal of licensure, and other necessary costs;

(D) Procedures for denying, suspending, revoking, reinstating, or limiting an agency licensure;

(E) Causes for disciplinary action against agencies; and

(F) Administrative penalties, fines, and other disciplinary sanctions which may be imposed on agencies;

(3) Standards and requirements for emergency medical services vehicles, including classifications and specifications;

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(4) Standards and requirements for training institutions, including approval or accreditation of sponsors of continuing education, course curricula, and personnel;

(5) Standards and requirements for a State Medical Direction System, including qualifications for a state emergency medical services medical director and regional medical directors, the establishment of a State Medical Policy and Care Committee, and the designation of regional medical command centers;

(6) Provision of services by emergency medical services personnel in hospital emergency rooms;

(7) Authorization to temporarily suspend the certification of an individual emergency medical services provider prior to a hearing or notice if the secretary finds there is probable cause that the conduct or continued service or practice of any individual certificate holder has or may create a danger to public health or safety: *Provided*, That the secretary may rely on information received from a physician that serves as a medical director in finding that probable cause exists to temporarily suspend the certification; and

(8) Any other rules necessary to carry out the provisions of this article;

(b) To apply for, receive, and expend advances, grants, contributions, and other forms of assistance from the state or federal government or from any private or public agencies or foundations to carry out the provisions of this article;

(c) To design, develop, and review, in consultation with the state health officer, a Statewide Emergency Medical Services Implementation Plan. The plan shall recommend aid and assistance and all other acts necessary to carry out the purposes of this article:

(1) To encourage local participation by area, county, and community officials, and regional emergency medical services boards of directors; and

(2) To develop a system for monitoring and evaluating emergency medical services programs throughout the state;

(d) To provide professional and technical assistance and to make information available to regional emergency medical services boards of directors and other potential applicants or program sponsors of emergency medical services for purposes of developing and maintaining a statewide system of services;

(e) To assist local government agencies, regional emergency medical services boards of directors, and other public or private entities in obtaining federal, state, or other available funds and services;

(f) To cooperate and work with federal, state, and local governmental agencies, private organizations, and other entities as may be necessary to carry out the purposes of this article;

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(g) To acquire in the name of the state by grant, purchase, gift, devise, or any other methods appropriate, real and personal property as may be reasonable and necessary to carry out the purposes of this article;

(h) To make grants and allocations of funds and property so acquired or which may have been appropriated to the agency to other agencies of state and local government as may be appropriate to carry out the purposes of this article;

(i) To expend and distribute by grant or bailment funds and property to all state and local agencies for the purpose of performing the duties and responsibilities of the agency all funds which it may have so acquired or which may have been appropriated by the Legislature of this state;

(j) To develop, in consultation with the state health officer, a program to inform the public concerning emergency medical services;

(k) To review and disseminate information regarding federal grant assistance relating to emergency medical services;

(l) To prepare and submit to the Governor and Legislature recommendations for legislation in the area of emergency medical services;

(m) To review, make recommendations for, and assist, in consultation with the state health officer, in all projects and programs that provide for emergency medical services whether or not the projects or programs are funded through the Office of Emergency Medical Services. A review and approval shall be required for all emergency medical services projects, programs, or services for which application is made to receive state or federal funds for their operation after the effective date of this act;

(n) To cooperate with the Department of Administration, Purchasing Division to establish one or more statewide contracts for equipment and supplies utilized by emergency medical services agencies in accordance with §5A-3-1 *et seq*. of this code:

(1) Any statewide contract established hereunder shall be made available to any emergency medical services agency licensed under §16-4C-6a of this code that is designated to provide emergency response by one or more county emergency dispatch centers.

(2) The office may develop uniform standards for equipment and supplies used by emergency medical services agencies in accordance with §5A-3-1 *et seq*. of this code.

(3) The office shall propose legislative rules for promulgation in accordance with §29A-3-1 *et seq*. of this code to effectuate the provisions of this subsection;

(o) To take all necessary and appropriate action to encourage and foster the cooperation of all emergency medical service providers and facilities within this state; and

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(p) To establish a program for emergency medical technicians, who, after three years of serving as an emergency medical technician, are eligible for state assistance through the fund established in §16-4C-24 of this code to become a certified paramedic.

WV Legislature

§16-4C-6a. Emergency medical services agency licensure.

(a) Any person who proposes to establish or maintain an emergency medical services agency shall file an application with the commissioner which includes the identity of the applicant, any parent or affiliated entity, the proposed level of service and the number of emergency medical service response vehicles of the agency or proposed agency. The commissioner may require that additional information be included on each application.

(b) Upon receipt and review of the application the commissioner shall issue a license if he or she finds that the applicant meets the requirements and quality standards, to be established by the commissioner, for an emergency medical services agency license, and if the applicant has certified under penalty of perjury that he or she is current with all lawful obligations owed the State of West Virginia, excluding obligations owed in the current quarter, including, but not limited to, payment of taxes and workers' compensation premiums: Provided, That the certification set forth in this paragraph is required for the original application and subsequent renewals.

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§16-4C-6b. Establishment of emergency medical services agency licensure fund; authorized expenditures; annual report.

(a) There is established in the state Treasury a special revenue fund designated the "Emergency Medical Services Agency Licensure Fund", which shall be administered by the Commissioner of the Bureau of Public Health.

(b) All application, personnel certification and recertification and agency licensing fees collected pursuant to the provisions of sections six, six-a and eight of this article shall be deposited into the fund and expended in accordance with the agency licensure and personnel certification and recertification duties imposed in this article.

(c) Any remaining balance, including accrued interest, in the fund at the end of the fiscal year shall not revert to the General Revenue Fund, but shall remain in the account.

(d) On or before January 1 of each year, the commissioner shall provide the Legislature with an annual fiscal year report on the emergency medical services agency licensure account including, but not limited to, the previous fiscal year's expenditures; projected expenditures for the current and next fiscal years; the number of agency licenses and personnel certifications and recertifications issued, denied, suspended or revoked; and, the status of licensure and certification hearings and court actions.

WV Legislature

§16-4C-6c

Repealed

Acts, 2018 Reg. Sess., Ch. 151.

WV Legislature

§16-4C-7. Vehicles, aircraft and persons aboard them exempted from requirements of article.

The following vehicles and aircraft are exempted from the provisions of this article and rules promulgated pursuant to it and persons aboard them are not required to comply with the provisions of section eight of this article:

(a) Privately-owned vehicles and aircraft not ordinarily used in the business or service of transporting patients;

(b) Vehicles and aircraft used as ambulances in case of a catastrophe or emergency when the ambulances normally staffed by certified emergency medical service personnel based in the locality of the catastrophe or emergency are insufficient to render the service required;

(c) Ambulances based outside this state, except that emergency medical service personnel aboard any such ambulance receiving a patient within this state for transportation to a location within this state shall comply with the provisions of this article and the rules promulgated pursuant to it except in the event of a catastrophe or emergency when the ambulances normally staffed by certified emergency medical service personnel based in the locality of the catastrophe or emergency are insufficient to render the services required;

(d) Ambulances owned by or operated under the direct control of a governmental agency of the United States; and

(e) Vehicles and aircraft designed primarily for rescue operations which do not ordinarily transport patients.

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§16-4C-8. Standards for emergency medical services personnel.

(a) Every ambulance operated by an emergency medical services agency shall carry at least two personnel. At least one person shall be certified in cardiopulmonary resuscitation or first aid and the person in the patient compartment shall be certified as an emergency medical technician-basic, at a minimum, except that in the case of a specialized multi-patient medical transport, only one staff person is required and that person shall be certified, at a minimum, at the level of an emergency medical technician-basic. The requirements of this subsection will remain in effect until revised by the legislative rule to be promulgated pursuant to §16-4C-8(b) of this code.

(b) On or before May 28, 2024, the commissioner shall submit a proposed legislative rule to the Emergency Medical Services Advisory Council for review, and on or before June 30, 2024, shall file the proposed legislative rule with the Office of the Secretary of State, in accordance with the provisions of §29A-3-1 *et seq*. of this code, to establish certification standards for emergency medical vehicle operators and to revise the requirements for emergency medical services personnel.

(c) As of the effective date of the legislative rule to be promulgated pursuant to §16-4C-8(b), emergency medical services personnel who operate ambulances shall meet the requirements set forth in the legislative rule.

(d) Any person desiring emergency medical services personnel certification shall apply to the commissioner using forms and procedures prescribed by the commissioner. Upon receipt of the application, the commissioner shall determine whether the applicant meets the certification requirements and may examine the applicant if necessary to make that determination.

(e) The applicant shall submit to a national criminal background check, the requirement of which is declared to be not against public policy.

(1) The applicant shall meet all requirements necessary to accomplish the national criminal background check, including submitting fingerprints, and authorizing the West Virginia Office of Emergency Medical Services, the West Virginia State Police, and the Federal Bureau of Investigation to use all records submitted and produced for the purpose of screening the applicant for certification.

(2) The results of the national criminal background check may not be released to, or by, a private entity.

(3) The applicant shall submit a fee of $75 for initial certification and a fee of $25 for recertification. The fees set forth in this subsection remain in effect until modified by legislative rule.

(f) An application for an original, renewal, or temporary emergency medical services

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personnel certificate or emergency medical services agency license, shall be acted upon by the commissioner and the certificate or license delivered or mailed, or a copy of any order of the commissioner denying any such application delivered or mailed, to the applicant within 15 days after the date upon which the complete application, including test scores and background checks, if applicable, was received by the commissioner.

(g) Certification as an Emergency Medical Dispatcher, Emergency Medical Vehicle Operator, Emergency Medical Responder, Emergency Medical Technician, Advanced Emergency Medical Technician, Paramedic, Mobile Critical Care Paramedic, or Mobile Critical Care Nurse is valid for a period of two years with expiration dates determined by the commissioner.

(h) Any person may report to the commissioner, or the Director of the Office of Emergency Medical Services, information he or she may have that appears to show that a person certified by the commissioner may have violated the provisions of this article or legislative rules promulgated pursuant to this article. A person who is certified by the commissioner, who knows of or observes another person certified by the commissioner violating the provisions of this article or legislative rules promulgated pursuant to this article, has a duty to report the violation to the commissioner or director. Any person who reports or provides information in good faith is immune from civil liability.

(i) The commissioner may issue a temporary emergency medical services personnel certificate to an applicant, with or without examination of the applicant, when he or she finds that issuance to be in the public interest. Unless suspended or revoked, a temporary certificate shall be valid initially for a period not exceeding 120 days and may not be renewed unless the commissioner finds the renewal to be in the public interest.

(j) For purposes of certification or recertification of emergency medical services personnel, the commissioner shall recognize and give full credit for all continuing education credits that have been approved or recognized by any state or nationally recognized accrediting body.

(k) Notwithstanding any other provision of code or rule, the commissioner recognizes that military personnel, National Guardsmen, members of the United States Coast Guard, and members of the Reserve Components of the armed services have advanced skills and training necessary to meet the requirements of this section to be certified as an emergency medical technician-paramedic upon application. Any person may seek automatic certification as an emergency medical technician-paramedic in this state if he or she has:

(1) Been honorably discharged from any branch of the United States military;

(2) Received paramedic or similar life-saving medical training in positions including, but not limited to, United States Army Combat Medic, United States Air Force Pararescue, United States Air Force Combat Rescue Officer, United States Navy Hospital Corpsman – Advanced Technical Field, United States Coast Guard Health Services Technician, National Guard Health Care Specialist, the Reserve Components of any of the preceding positions, or can

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otherwise demonstrate that his or her occupation in the military received substantially similar training to be certified as required by the commissioner; and

(3) Received an honorable discharge within two years of the application date.

(l) Notwithstanding any other provision of code or rule, the commissioner recognizes that military personnel, National Guardsmen, members of the United States Coast Guard, and members of the Reserve Components of the armed services have advanced skills and training necessary to meet the requirements of this section to be certified as an emergency medical technician-basic upon application. Any person may seek automatic certification as an emergency medical technician-basic in this state if he or she has:

(1) Been honorably discharged from any branch in the United States military;

(2) Received emergency medical technician training or similar life-saving medical training in positions including, but not limited to, United States Army Infantryman, United States Air Force Security Forces, United States Navy Hospital Corpsman, United States Coast Guard Aviation Survival Technician, United States Marines Infantryman, National Guard Infantryman, and Reserve Components of any of the preceding positions, or can otherwise demonstrate that his or her occupation in the military received substantially similar training to be certified as required by the commissioner; and

(3) Received an honorable discharge within two years of the application date.

(m) Upon reviewing an application for certification pursuant to subsections (k) and subsection (l) of this section, the commissioner shall issue an appropriate certificate to the individual applying for certification as an emergency medical technician-paramedic or emergency medical technician-basic without further examination or education. If an individual certified pursuant to this section permits his or her certification to expire, the commissioner may require examination as a condition of recertification.

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§16-4C-8a. Courtesy certification of emergency medical services personnel in surrounding states.

(a) It is the intention of the Legislature to permit individuals who have been certified as emergency medical services personnel in a state bordering West Virginia to serve as emergency medical services personnel in West Virginia.

(b) Beginning July 1, 2018, the Commissioner of the Bureau for Public Health shall establish a process by which a courtesy certification to serve as an emergency medical responder or emergency medical technician in this state may be issued to any person who satisfies the following requirements:

(1) Is certified as an emergency medical responder or emergency medical technician, or a similar certification, in good standing in a state bordering West Virginia;

(2) Complies with the application process and procedures established by the Commissioner of the Bureau for Public Health; and

(3) Submits any required fee.

(c) Issuance of a courtesy certification shall not be withheld by the Commissioner of the Bureau for Public Health based on an individual's failure to satisfy the minimum eligibility requirements for emergency medical services personnel set forth in legislative rules promulgated pursuant to §16-4C-6 of this code.

(d) The Commissioner of the Bureau for Public Health shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code to implement the provisions of this section.

(e) Any courtesy certification issued pursuant to this section may be revoked at any time if the individual's certification in the bordering state is restricted, revoked, or otherwise expires.

(f) Any courtesy certification issued pursuant to this section must be renewed biennially.

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§16-4C-9. Complaints; investigations; due process procedure; grounds for disciplinary action; public notice of action.

(a) The commissioner may at any time, upon his or her own motion, and shall, upon the written complaint of any person, cause an investigation to be conducted to determine whether grounds exist for disciplinary action under this article or legislative rules promulgated pursuant to this article.

(b) An investigator or other person who, under the direction of the commissioner or the director, gathers or reports information in good faith to the commissioner or the director, is immune from civil liability.

(c) After reviewing any information obtained through an investigation, the commissioner or director shall determine if probable cause exists that the licensee or certificate holder has violated any provision of this article or rules promulgated pursuant to this article.

(d) Upon a finding that probable cause exists that the licensee or certificate holder has violated any provision of this article or rules promulgated pursuant to this article, the commissioner or director shall provide a copy of the complaint and notice of hearing to the licensee or certificate holder. Upon a finding of probable cause that the conduct or continued service or practice of any individual certificate holder may create a danger to public health or safety, the commissioner may temporarily suspend the certification prior to a hearing or notice: *Provided*, That the commissioner may rely on information received from a physician who serves as a medical director in finding that probable cause exists to temporarily suspend the certification: *Provided, however*, That the commissioner shall simultaneously institute proceedings for a hearing in accordance with §16-4C-10 of this code.

(e) The commissioner or the director may enter into a consent decree or hold a hearing for the suspension or revocation of the license or certification or the imposition of sanctions against the licensee or certificate holder.

(f) The commissioner or the director may issue subpoenas and subpoenas duces tecum to obtain testimony and documents to aid in the investigation of allegations against any person or agency regulated by this article.

(g) The commissioner or the director may sign a consent decree or other legal document related to the complaint.

(h) The commissioner shall suspend or revoke any certificate, temporary certificate, or license when he or she finds the holder has:

(1) Obtained a certificate, temporary certificate, or license by means of fraud or deceit; or

(2) Been grossly incompetent or grossly negligent as defined by the commissioner in accordance with rules or by prevailing standards of emergency medical services care; or

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(3) Failed or refused to comply with the provisions of this article or any legislative rule promulgated by the commissioner or any order or final decision of the commissioner; or

(4) Engaged in any act during the course of duty which has endangered or is likely to endanger the health, welfare, or safety of the public.

(i) The commissioner or the director may, after notice and opportunity for hearing, deny or refuse to renew, suspend, or revoke the license or certification of, impose probationary conditions upon, or take disciplinary action against, any licensee or certificate holder for any violation of this article or any rule promulgated pursuant to this article, once a violation has been proven by a preponderance of the evidence.

(j) Disciplinary action may include:

(1) Reprimand;

(2) Probation;

(3) Administrative penalties and fines;

(4) Mandatory attendance at continuing education seminars or other training;

(5) Practicing under supervision or other restriction;

(6) Requiring the licensee or holder of a certificate to report to the commissioner or director for periodic interviews for a specified period of time;

(7) Other disciplinary action considered by the commissioner or director to be necessary to protect the public, including advising other parties whose legitimate interests may be at risk; or

(8) Other sanctions as set forth by legislative rule promulgated pursuant to this article.

(k) The commissioner shall suspend or revoke any certificate, temporary certificate, or license if he or she finds the existence of any grounds which would justify the denial of an application for the certificate, temporary certificate, or license if application were then being made for it.

(l) The Office of Emergency Medical Services shall, after notice and opportunity for hearing, make available to the public electronically via the board's website, information regarding any suspension or revocation of the certification of EMS personnel for any violation of this article or any rule promulgated pursuant to this article. The information published shall be limited to the individual’s name, certification number, whether the certification was revoked or suspended, and the date of action. This section does not require the Office of Emergency Medical Services to publish any information otherwise protected under this code.

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§16-4C-10. Procedures for hearing.

Hearings are governed by the provisions of §29A-5-1 *et seq*. of this code.

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§16-4C-11. Liability for cost of emergency medical service.

Any patient who receives an emergency medical service and who is unable to give his or her consent to or contract for the service, whether or not he or she has agreed or consented to liability for the service, shall be liable in implied contract to the entity providing the emergency medical service for the cost thereof.

Any person who receives an emergency medical service upon his or her request for the service shall be liable for the cost thereof.

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§16-4C-12. Violations; criminal penalties.

(a) When, as a result of an investigation under this article or otherwise, the commissioner or director has reason to believe that a licensee or certificate holder has committed a criminal offense, the commissioner or director may bring the information to the attention of an appropriate law-enforcement official.

(b) Any person who violates any law or rule or operates an ambulance with an insufficient number of emergency medical service personnel aboard when not lawfully permitted to do so, or who represents himself or herself as a certified emergency medical service personnel knowing the representation to be untrue, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $1,000: Provided, That after July 1, 2010, the fine shall not be more than $5,000.

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§16-4C-13. Actions to enjoin violations; injunctive relief.

Whenever it appears to the commissioner that any person has been or is violating or is about to violate any provision of this article or any final order of the commissioner, the commissioner may apply in the name of the state, to the circuit court of the county in which the violation or any part thereof has occurred, is occurring or is about to occur, for an injunction against the person and any other persons who have been, are or are about to be, involved in, or in any way participating in, any practices, acts or omissions, so in violation, enjoining the person or persons from any such violation. The application may be made and prosecuted to conclusion whether or not any such violation has resulted or shall result in prosecution or conviction under the provisions of section twelve of this article.

Upon application by the commissioner, the circuit courts of this state may by mandatory or prohibitory injunction compel compliance with the provisions of this article and all final orders of the commissioner.

The circuit court may issue a temporary injunction in any case pending a decision on the merits of any application filed.

The judgment of the circuit court upon any application permitted by the provisions of this section shall be final unless reversed, vacated or modified on appeal to the Supreme Court of Appeals. Any such appeal shall be sought in the manner and within the time provided by law for appeals from circuit courts in other civil cases.

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§16-4C-14. Services that may be performed by emergency medical service personnel.

Notwithstanding any other provision of law, emergency medical service personnel may provide the services as determined by the commissioner by legislative rule pursuant to the provisions of article three, chapter twenty-nine-a of this code. Legislative rules governing provision of these services in a hospital emergency room setting shall be developed by the commissioner and shall include provisions allowing paramedics to function under the direct supervision of a registered professional nurse in a hospital emergency room setting. Provision of these services in an emergency room hospital setting shall not be initiated until a legislative rule establishing training requirements, standards and requirements for these functions is in effect. The Legislature therefore directs the commissioner to propose this legislative rule on or before July 1, 2006. Further, the Commissioner may promulgate this rule as an emergency rule pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code. Any rule so promulgated shall provide that paramedics are under the jurisdiction of the commissioner. The West Virginia Board of Registered Professional Nurses may propose legislative rules, pursuant to article three, chapter twenty-nine-a of the code relating to the scope of practice for nurses as those practices relates to overseeing these paramedics. The provisions of this section and any rules promulgated thereunder may not be construed to alter in any manner the duties, role or responsibilities of attending physicians regarding the providing and oversight of patient care.

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§16-4C-15. Powers of emergency medical service attendants, emergency medical technicians-basic and emergency medical technicians-paramedic during emergency communications failures and disasters.

(a) In the event of a communications failure between the certified emergency medical services agency personnel, as defined in section three of this article, and the physician during an emergency situation, the certified personnel is authorized to deliver the services as authorized in section fourteen of this article.

(b) In the event of a disaster or other occurrence which renders the communication system ineffective for purposes of adequate individual direction between the physician and the certified emergency medical services agency personnel, the personnel may perform the services as authorized pursuant to the provisions of section fourteen and may release immediate control of the patient to any other emergency medical service personnel in order to provide immediate services to other patients affected by the disaster or other occurrence.

(c) In the event that services are provided under subsection (a) or (b) of this section, the emergency medical services personnel shall, within five days, provide a report to the commissioner, on the forms prescribed by him or her, of the services performed, the identity of the patient and the circumstances justifying the provision of the services. The commissioner may require any other information deemed necessary.

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§16-4C-16. Limitation of liability; mandatory errors and omissions insurance.

(a) Every person, corporation, ambulance service, emergency medical service provider, emergency ambulance authority, emergency ambulance service or other person which employs emergency medical service personnel with or without wages for ambulance service or provides ambulance service in any manner, shall obtain a policy of insurance insuring the person or entity and every employee, agent or servant, against loss from the liability imposed by law for damages arising from any error or omission in the provision of emergency medical services as enumerated by this article, in an amount no less than $1 million per incident.

(b) No emergency medical service personnel or emergency medical service provider is liable for civil damages or injuries in excess of the amounts for which the person or entity is actually insured, unless the damages or injuries are intentionally or maliciously inflicted.

(c) Every person or entity required by this section to obtain a policy of insurance shall furnish proof of the existence of the policy to the commissioner on or before January 1 of each calendar year.

(d) Any person or entity who fails to secure a policy of insurance before providing emergency medical services is not entitled to the limited liability created by subsection (b) of this section: Provided, That any physician, who gives instructions to emergency medical service personnel without being compensated, or who treats any patient transported in an ambulance or treats any patient prior to the transport, without being compensated, is entitled to the limited liability provided in subsection (b) of this section.

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§16-4C-17. Limitation of liability for failure to obtain consent.

No emergency medical service personnel may be subject to civil liability, based solely upon failure to obtain consent in rendering emergency medical services to any individual regardless of age where the patient is unable to give his or her consent for any reason, including minority, and where there is no other person reasonably available who is legally authorized to consent to the providing of such care or who is legally authorized to refuse to consent to the providing of such care.

Nothing in this article may be construed to require medical treatment or transportation for any adult in contravention of his or her stated objection thereto upon religious grounds or pursuant to any living will or do not resuscitate orders: Provided, That the emergency medical service provider is actually aware of the living will or do not resuscitate order.

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§16-4C-18. Authority of emergency medical service personnel in charge of emergency medical services.

When any department, agency or entity which provides emergency medical services under the authority of this article is responding to, operating at or returning from an emergency medical service, any emergency medical service personnel serving in the capacity of an emergency medical service line officer in charge, shall control and direct the providing of emergency medical services. The emergency medical service personnel serving in the capacity of an emergency medical service line officer shall determine whether a patient shall be transported from the emergency scene, determine what care shall be rendered prior to the transport, determine the appropriate facility to which the patient shall be transported, and otherwise fully direct and control the providing of emergency medical services and patient care under the direction of medical command.

Nothing included in this section may be construed to restrict or interfere with the authority of a fire officer in charge to supervise or direct those fire department personnel under his or her command or to restrict any person from entering a hazardous area for which the fire officer has assumed the responsibility.

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§16-4C-19. Obstructing or causing bodily injury to emergency medical service personnel; criminal penalties.

(a) It is unlawful for any person to intentionally obstruct or interfere with any emergency medical service agency personnel engaged in the act of delivering or administering emergency medical services. Any person violating the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 or confined in the county or regional jail for a period not more than one year, or both fined and confined.

(b) It is unlawful for any person to willfully cause bodily injury to any person designated to be an emergency medical personnel engaged in the act of delivering or administering emergency medical services. Any person violating the provisions of this subsection is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility not less than one nor more than ten years or fined not more than $5,000, or both fined and confined.

(c) Nothing in this section may be construed to prevent law-enforcement officials from controlling traffic and otherwise maintaining order at the scene of an accident, injury or illness where an emergency medical service agency is rendering services.

(d) No person may willfully fail or refuse to comply with a lawful order or direction of any emergency medical service agency personnel engaged in the act of delivering or administering emergency medical services, relating to directing, controlling or regulating traffic, so long as such order or direction is conveyed by a retro-reflective hand signing device. Any person violating the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof: (1) For a first offense shall be fined not more than $100; (2) for a second offense occurring within one year of a previous conviction shall be fined not more than $200; and (3) for a third and subsequent offense shall be fined not more than $500.

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§16-4C-20. Service reciprocity agreements for mutual aid.

Any persons or entities providing lawful emergency medical services under the provisions of this article are hereby authorized in their discretion to enter into and renew service reciprocity agreements, for any period as they may deem advisable, with the appropriate emergency medical service providers, county, municipal or other governmental units or in counties contiguous to the State of West Virginia, in the state of Ohio, the commonwealth of Pennsylvania, the state of Maryland, the commonwealth of Virginia or the commonwealth of Kentucky, in order to establish and carry into effect a plan to provide mutual aid across state lines, through the furnishing of properly certified personnel and equipment for the provision of emergency medical services in this state and the counties contiguous to this state upon written approval by the commissioner.

No person or entity may enter into any such agreement unless the agreement provides that each of the parties to the agreement shall waive any and all claims against the other parties thereto, which may arise out of their activities outside of their respective jurisdictions under the agreement and shall indemnify and save harmless the other parties to the agreement from all claims by third parties for property damages or personal injuries which may arise out of the activities of the other parties to the agreement outside their respective jurisdictions under the agreement.

The commissioner is hereby authorized to enter into service reciprocity agreements with appropriate officials in other states for the purpose of providing emergency medical services to the citizens of this state by emergency medical service personnel properly certified in their respective state or states. A formal agreement between the commissioner and an authorized official of another state shall be in effect prior to the service being provided. Individual certification of other state emergency medical service personnel is not required for purposes of providing services to West Virginia citizens following the creation of the agreement by the responsible officials.

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§16-4C-21. Restriction for provision of emergency medical services by out-of-state emergency medical service personnel or providers of emergency medical services.

The commissioner may issue an order on his or her own motion upon written request of any emergency medical service provider or county commission in this state, to restrict an out-of-state provider of emergency medical services or an out-of-state emergency medical service personnel to a particular geographic area of the State of West Virginia or prohibit the provider or personnel from providing emergency medical services within the borders of this state when in the opinion of the commissioner the services are not required or do not meet the standards set forth herein or those established by rules as authorized by this article.

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§16-4C-22. Transportation of unconscious or otherwise uncommunicative patients.

(a) Emergency medical service personnel shall transport critically ill or injured, unconscious or otherwise uncommunicative patients to the medical facility designated by the medical command physician.

(b) No person may have the right to direct emergency medical service personnel to transport a patient to a specific medical facility unless the person is the legal guardian, parent of a minor or has power of attorney for the critically injured or ill patient.

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§16-4C-23. Authority of the commissioner to make rules.

(a) The commissioner shall propose for promulgation, legislative rules pursuant to §29A-3-1 *et seq*. of this code to carry out the purposes of this article.

(b) Notwithstanding the provisions of §16-4C-6(a) of this code, the commissioner shall propose for promulgation a legislative rule regulating fire department rapid response services, pursuant to §29A-3-1 *et seq.* of this code which: (1) Establishes licensure and certification requirements for fire department rapid response services who charge for their services or transport patients; (2) incorporates necessary applicable emergency medical services requirements for licensure for "emergency medical services" as the requirements apply to fire departments and as defined in §16-4C-3(e) of this code; and (3) creates an exemption from licensure for certain fire departments who do not charge for their services or patient transport, but who provide rapid response services pursuant to an agreement with a licensed emergency medical services agency that addresses medical direction, training, quality assurance, and liability insurance.

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§16-4C-24. Emergency Medical Services Equipment and Training Fund; establishment of a grant program for equipment and training of emergency medical service providers and personnel.

(a) There is continued in the State Treasury a special revenue fund to be known as the Emergency Medical Services Equipment and Training Fund. Expenditures from the fund by the Office of Emergency Medical Services and Bureau for Public Health, are authorized from collections. The fund may only be used for the purpose of providing grants to equip emergency medical services providers and train emergency medical services personnel, as defined in §16-4C-3 of this code, and for the program established in §16-4C-6(p). Any balance remaining in the fund at the end of any fiscal year does not revert to the General Revenue Fund but remains in the special revenue fund.

(b) The secretary shall establish a grant program for equipment, training of emergency medical services providers and personnel, and for the program established in §16-4C-6(p). Such grant program shall be open to all emergency medical services personnel and providers, but priority shall be given to rural and volunteer emergency medical services providers.

(c) The secretary shall propose legislative rules for promulgation in accordance with §29A-3-1 *et seq*. of this code to implement the grant program established pursuant to this section and for the program established in §16-4C-6(p).

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§16-4C-25. Emergency Medical Services Crisis Response and Mental Health Treatment Fund.

(a) There is hereby continued in the State Treasury a special revenue fund designated and known as the Emergency Medical Services Salary Enhancement Fund, hereafter to be known as the Emergency Medical Services Crisis Response and Mental Health Treatment Fund. Expenditures from the fund shall be for the purposes set forth in this section, including training, purchasing and maintaining equipment and supplies, facility maintenance, and providing crisis response for county emergency medical service personnel as that term is defined in §16-4C-3(g) of this code or a county-designated or contracted emergency medical service provider. The fund consists of moneys appropriated by the Legislature, grants, gifts, devises, and donations from any public or private source. All interest and other returns derived from the deposit and investment of moneys in the fund shall be credited to the fund. Any balance, including accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be expended as provided in this section. The Director of the West Virginia Office of Emergency Medical Services shall administer the fund.

(b) Notwithstanding the provisions of subsection (a) of this section to the contrary, any funds transferred into the fund from the State Lottery Fund pursuant to the provisions of §29-22-18h of this code shall be distributed to counties subject to the following conditions:

(1) The first $1 million transferred shall be used by the Office of Emergency Medical Services for mental health treatment and training for emergency medical service personnel, including, but not limited to:

(A) Crisis Intervention Team training;

(B) Peer support programs;

(C) Adult Mental Health First Aid;

(D) Life Coach training; or

(E) Critical Incident Stress Management training: *Provided*, That any funds not used in any fiscal year may be redistributed to the counties according to the distribution authorized by this section.

(2) For any money awarded to a county from funds transferred from the State Lottery pursuant to §29-22-18h of this code, the county shall provide a 30 percent match from county funds or funds received by the county from other sources to serve as a match for these funds.

(c) The Director of the Office of Emergency Medical Services shall propose legislative rules for promulgation and promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code. These rules shall include a means of distributing any available funds to counties to

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accomplish the purpose of this section with an emphasis on the following factors:

(1) Counties who may demonstrate the most need;

(2) Counties that have a special levy for emergency medical services;

(3) Counties that have reached the maximum allowable rate on regular levies; and/or

(4) Counties that have a challenge recruiting and retaining emergency medical services personnel due to interstate competition.

(d) The Office of Emergency Medical Services shall prepare an annual report to the Legislative Oversight Commission on Health and Human Resources Accountability. The report shall provide:

(1) A county-by-county accounting of how the funds were distributed;

(2) An accounting by county of the number of emergency medical service workers receiving a salary enhancement; and

(3) Recommendations for continued funding.

The report is due by July 1 annually.

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§16-4C-26. Triage, treat, and transport to alternative destination.

(a) An emergency medical services agency may triage and transport a patient to an alternative destination in this state or treat in place if the emergency medical services agency is coordinating the care of the patient through medical command or telehealth services with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint. Emergency medical services agencies shall execute a memorandum of understanding with alternative treatment destinations as permitted by the protocols to transport patients.

(b) On or before October 1, 2024, the director shall establish protocols for emergency medical services agencies to triage, treat, and transport to alternative destinations.

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