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WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1984

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ENROLLED
Committee Substitute for
SENATE BILL NO. 263

(By Mr. BOEHNER)

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PASSED March 10, 1984

In Effect ninety days from Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 263
(MR. BOETTNER, *original sponsor*)

[Passed March 10, 1984; in effect ninety days from passage]

AN ACT to repeal article four-d, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact article four-c of said chapter; to repeal article three-b, chapter thirty of said code; to amend and reenact section nine, article fourteen, chapter seventeen-c of said code; to amend and reenact section one, article two-c, chapter twenty-two of said code; to amend and reenact section two, article six-a, chapter forty-nine of said code; and to amend article six, chapter sixty-one of said code by adding thereto a new section, designated section twenty, all relating to emergency medical services; providing a short title; purpose; definitions; establishing office of emergency medical services; establishing emergency medical services advisory council and providing for powers and duties; powers and duties of director under article; exempting certain vehicles and aircraft; providing standards for emergency service personnel; requirements for training programs; extension of certificates and temporary certificates; providing for refusal or suspension and

revocation of certificates or temporary certificates and appeal therefrom; establishing liability for the cost of ambulance service; providing violations and criminal penalties; authorizing injunctive relief; listing services that may be performed by emergency medical service personnel; giving certain powers to emergency service personnel during emergency communications failures and disasters; limiting liability of providers of emergency medical services and requiring insurance in lieu thereof; limiting liability for failure to obtain consent; providing for person in charge in case of emergencies; providing the offense of obstructing emergency services personnel and a criminal penalty therefor; allowing service reciprocity agreements for mutual aid; giving the director authority to restrict services by out of state providers; giving the director of the department of health authority to make regulations; providing for severability; prohibiting the following of authorized emergency vehicles; providing for emergency service personnel in coal mines; mandating emergency medical service personnel to report suspected child abuse and neglect; and providing the offense of falsely reporting an emergency incident and a criminal penalty therefor.

Be it enacted by the Legislature of West Virginia:

That article four-d, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that article four-c of said chapter be amended and reenacted; that article three-b, chapter thirty be repealed; that section nine, article fourteen, chapter seventeen-c of said code be amended and reenacted; that section one, article two-c, chapter twenty-two of said code be amended and reenacted; that section two, article six-a, chapter forty-nine of said code be amended and reenacted; and that article six, chapter sixty-one of said code be amended by adding thereto a new section, designated section twenty, all to read as follows:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

§16-4C-1. Short title.

- 1 This article shall be known as the "Emergency Medical
- 2 Services Act of 1984."

§16-4C-2. Purposes of article.

1 The Legislature finds and declares: (1) That the safe and
2 efficient operation of life-saving and life-preserving
3 emergency medical service to meet the needs of citizens of
4 this state is a matter of general public interest and concern;
5 (2) that, in order to ensure provision of adequate emergency
6 medical services within this state for the protection of the
7 public health, safety and welfare, it is imperative that
8 minimum standards for emergency medical service
9 personnel be established and enforced by the state; (3) that
10 emergency medical service personnel should meet
11 minimum training standards promulgated by the director;
12 (4) that it is the public policy of this state to enact legislation
13 to carry out these purposes and comply with minimum
14 standards for emergency medical service personnel as
15 specified herein; and (5) that any patient who receives
16 emergency medical service and who is unable to consent
17 thereto should be liable for the reasonable cost of such
18 service.

§16-4C-3. Definitions.

1 As used in this article, unless the context clearly requires
2 a different meaning:
3 "Ambulance" means any privately or publicly owned
4 vehicle or aircraft which is designed, constructed or
5 modified; equipped or maintained; and operated for the
6 transportation of patients.
7 "Ambulance service" means the transportation, and
8 treatment at the site of pickup and en route, of a patient to
9 or from a place where medical, hospital or clinical service is
10 normally available.
11 "Council" means the emergency medical service advisory
12 council created pursuant to section five of this article.
13 "Director" means the director of health.
14 "Emergency medical services" means all services which
15 are set forth in P.L. 93-154 "The Emergency Medical
16 Services Act of 1973" and those included in and made a part
17 of the emergency medical services plan of the department of
18 health inclusive of, but not limited to, caring for and giving
19 life-saving or life-preserving treatment to a patient.

20 “Emergency medical service personnel” means any
21 person certified by the director to provide emergency
22 medical services as set out in section eight of this article and
23 includes, but is not limited to, emergency medical service
24 attendants, emergency medical technicians, emergency
25 medical technicians-ambulance, emergency medical
26 technicians-intermediate, mobile intensive care
27 paramedics, emergency medical technician-paramedics,
28 physicians, osteopathic physicians, persons certified to
29 provide cardiopulmonary resuscitation, registered nurses
30 and licensed practical nurses who have been trained in first
31 aid, or other licensed or certified health providers who meet
32 the standards and training requirements as determined by
33 the director.

34 “Emergency medical service attendant” means a person
35 certified by the director to render such emergency medical
36 services as are authorized for such emergency medical
37 service attendant in section eight of this article.

38 “Emergency medical technician” means a person
39 certified by the director to render such emergency medical
40 services as are authorized for such emergency medical
41 technician in section eight of this article.

42 “Emergency medical technician-ambulance” means a
43 person certified by the director to render such emergency
44 medical services as are authorized for such emergency
45 medical technician-ambulance in section eight of this
46 article.

47 “Emergency medical technician-intermediate” means a
48 person certified by the director to render such emergency
49 medical services as are authorized for such emergency
50 medical technician-intermediate in section eight of this
51 article.

52 “Mobile intensive care paramedic” means a person
53 certified by the director to render such emergency medical
54 services as are authorized for such mobile intensive care
55 paramedic in section eight of this article.

56 “Emergency medical technician-paramedic” means a
57 person certified by the director to render such emergency
58 medical services as are authorized for such emergency
59 medical technician-paramedic in section eight of this
60 article.

61 “Emergency medical service provider” means any

62 authority, person, corporation, partnership or other entity
63 public or private which owns or operates an ambulance
64 which provides emergency medical service in this state.

65 "Governing body" has the meanings ascribed to it as
66 applied to a municipality in subsection (b), subdivision (1),
67 section two, article one, chapter eight of this code.

68 "Line officer" means the emergency medical service
69 personnel present at the scene of an accident, injury or
70 illness who has taken the responsibility for patient care.

71 "Medical command" means the issuing of orders by a
72 physician or osteopathic physician from a medical facility
73 to emergency medical service personnel for the purpose of
74 providing appropriate patient care.

75 "Municipality" has the meaning ascribed to it in
76 subsection (a), subdivision (1), section two, article one,
77 chapter eight of this code.

78 "Patient" means any sick, injured, wounded or otherwise
79 incapacitated or helpless person, or an expectant mother
80 who needs medical, hospital or clinical service under an
81 existing or imminent emergency situation.

82 "Service reciprocity" means the provision of emergency
83 medical services to citizens of this state by emergency
84 medical service personnel certified to render such services
85 by a neighboring state.

86 "Small emergency medical service provider" means any
87 emergency medical service provider which is made up of
88 less than twenty emergency medical service personnel.

**§16-4C-4. Office of emergency medical services created;
staffing.**

1 There is hereby created within state government under
2 the director of the department of health an office to be
3 known as the office of emergency medical services.

4 The director may employ such technical, clerical,
5 stenographic and other personnel as may be necessary to
6 carry out the purposes of this article. Such personnel may
7 be paid from funds appropriated therefor or from such
8 other funds as may be made available for carrying out the
9 purposes of this article.

10 The office of emergency medical services as created by
11 former section four, article four-d of this chapter, shall
12 continue in existence as the office of emergency medical
13 services established by this section.

§16-4C-5. Emergency medical services advisory council; duties, composition, appointment, meetings, compensation and expenses.

1 The emergency medical service advisory council,
2 heretofore created and established by former section seven
3 of this article, shall be continued for the purpose of
4 developing, with the director, standards for emergency
5 medical service personnel and for the purpose of providing
6 advice to the office of emergency medical services and the
7 director thereof, as established by section four of this article
8 with respect to reviewing and making recommendations for
9 and providing assistance to the establishment and
10 maintenance of adequate emergency medical services for
11 all portions of this state.

12 The council shall have the duty to advise the director in
13 all matters pertaining to his duties and functions in relation
14 to carrying out the purpose of this article.

15 The council shall be composed of thirteen members
16 appointed by the governor by and with the advice and
17 consent of the Senate. Within twenty days of the effective
18 date of this act the West Virginia professional paramedic
19 and EMT association shall submit to the governor a list of
20 six names of representatives from their association and a
21 list of three names shall be submitted to the governor of
22 representatives of their respective organizations by the
23 West Virginia association of county officials, West Virginia
24 state firemen's association, West Virginia hospital
25 association, West Virginia state medical association, West
26 Virginia chapter of the American college of emergency
27 physicians, West Virginia emergency medical services
28 administrators association, and the state department of
29 education. Within thirty days of the effective date of this act
30 the governor shall appoint from the respective lists
31 submitted two persons who represent the West Virginia
32 professional paramedic and EMT association, and one
33 person from the West Virginia association of county
34 officials, West Virginia state firemen's association, West
35 Virginia hospital association, West Virginia state medical
36 association, West Virginia chapter of the American college
37 of emergency physicians, West Virginia emergency medical
38 services administrators association, and the state
39 department of education. The governor shall in addition

40 appoint one person to represent emergency medical service
41 providers operating within the state, one person to
42 represent small emergency medical service providers
43 operating within this state and two persons to represent the
44 general public.

45 The council shall choose its own chairman and meet at the
46 call of the director at least quarterly.

47 The members of such council may be reimbursed for any
48 and all reasonable and necessary expenses actually
49 incurred in the performance of their duties.

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

1 The director shall have the following powers and duties:

2 (a) In accordance with chapter twenty-nine-a of this
3 code, to promulgate rules and regulations regarding the
4 age, training, retraining, testing and certification and
5 recertification of emergency medical service personnel:
6 *Provided*, That the director may not promulgate any rule or
7 regulation until it is approved by the emergency medical
8 services advisory council. The council shall take no action
9 unless a quorum is present.

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

15 (c) To design, develop and annually review a statewide
16 emergency medical services implementation plan. Such
17 plan shall recommend aid and assistance and all other such
18 acts as shall be necessary to carry out the purposes of this
19 article:

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

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

25 (d) To provide professional and technical assistance and
26 to make information available to regional and area
27 emergency medical services boards of directors and other
28 potential applicants or program sponsors of emergency
29 medical services for purposes of developing a statewide
30 system of such services.

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

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

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

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

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

55 (j) To develop a program to inform the public
56 concerning emergency medical services programs.

57 (k) To review and disseminate information regarding
58 federal grant assistance relating to emergency medical
59 services.

60 (l) To prepare and submit to the governor and
61 Legislature recommendations for legislation in the area of
62 emergency medical services.

63 (m) To review and make recommendations for and to
64 assist or aid in all projects and programs which provide for
65 emergency medical services regardless of whether or not
66 such projects or programs are funded through the office of
67 emergency medical services. Such review and approval
68 shall be required for all emergency medical services
69 projects, programs or services for which application is
70 made to receive state or federal funds for their operation
71 after the effective date of this bill.

72 (n) To take all necessary and appropriate action to
73 encourage and foster the cooperation of all emergency
74 medical service providers and facilities within this state.

75 (o) Nothing in this article shall be construed to allow the
76 director to dissolve, invalidate or eliminate any existing
77 EMS program or ambulance providers in service at the time
78 of adoption of the amendment to this article in the regular
79 session of the Legislature in the year one thousand nine
80 hundred eighty-four, or to deny them fair access to federal
81 and state funding and to medical facilities and training
82 programs, nor require an EMS program serving any
and 83 community having thirty or fewer active volunteers to have
1 84 more than one person who is certified as an emergency
85 medical service personnel notwithstanding the provisions
86 of section eight of this article or any other provision of this
87 code.

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

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

6 (a) Privately owned vehicles and aircraft not ordinarily
7 used in the business or service of transporting patients.

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

13 (c) Ambulances based outside this state, except that
14 emergency medical service personnel aboard any such
15 ambulance receiving a patient within this state for
16 transportation to a location within this state must comply
17 with the provisions of this article and the rules promulgated
18 pursuant to it except in the event of a catastrophe or
19 emergency when the ambulances normally staffed by
20 certified emergency medical service personnel based in the
21 locality of the catastrophe or emergency are insufficient to
22 render the services required.

23 (d) Ambulances owned by or operated under the direct
24 control of a governmental agency of the United States.

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

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

1 (1) After the first day of January, one thousand nine
2 hundred eighty-five, every ambulance which provides
3 ambulance service or emergency medical services shall
4 carry two persons who are certified as emergency medical
5 service personnel, one of which personnel shall be in the
6 patient compartment at all times when a patient is being
7 transported by such ambulance. As a minimum, of the
8 personnel carried by any ambulance operated by any
9 emergency medical service provider, one shall be trained in
10 cardiopulmonary resuscitation and one shall be certified as
11 an emergency medical service attendant.

12 (2) After the first day of July, one thousand nine
13 hundred eighty-six, at least one of the emergency medical
14 services personnel referred to in the immediately preceding
15 subsection shall be minimally certified as an emergency
16 medical technician-ambulance on any emergency call and
17 such person shall be in the patient compartment at all times
18 a patient is being transported.

19 As a minimum, the training for each class of emergency
20 medical service personnel shall include

21 (a) Emergency medical service attendant: Shall have
22 earned and possess valid certificates from the department
23 or by authorities recognized and approved by the director in
24 advanced first aid or equivalent training and
25 cardiopulmonary resuscitation.

26 (b) Emergency medical technician: Shall have
27 successfully completed the course on emergency care of the
28 sick and injured established by the director or by
29 authorities recognized and approved by the director.

30 (c) Emergency medical technician-ambulance: Shall
31 have successfully completed the course for certification as
32 an emergency medical technician-ambulance as
33 established by the director or authorities recognized and
34 approved by the director.

35 (d) Emergency medical technician-intermediate: Shall
36 have successfully completed the course for certification as
37 an emergency medical technician-ambulance and such
38 other course of study and certification as may be
39 established by the director.

40 (e) Mobile intensive care paramedic: Shall have
41 successfully completed the course for certification as a
42 mobile intensive care paramedic and such other course of
43 study and certification as may be established by the
44 director.

45 (f) Emergency medical technician-paramedic: Shall
46 have completed the course for certification as an emergency
47 medical technician-paramedic and such other course of
48 study and certification as may be established by the
49 director.

50 The foregoing shall not be considered to limit the power
51 of the director to prescribe training, certification and
52 recertification standards.

53 State and county continuing education and
54 recertification programs for all levels of emergency medical
55 service providers shall be available to emergency medical
56 service providers at a convenient site within the county in
57 which the emergency medical service provider operates, or
58 in an adjacent county within thirty minutes travel time of
59 the provider's primary place of operation. Such continuing
60 education programs shall be provided free of charge by the
61 department of health to all non-profit emergency medical
62 service providers.

63 (3) Any person desiring emergency medical services
64 personnel certification shall apply to the director using
65 forms and procedures prescribed by the director. Upon
66 receipt of such application, the director shall determine if
67 the applicant meets the requirements for certification and
68 examine the applicant, as in his discretion, is necessary to
69 make such a determination. If it is determined that the
70 applicant meets all of the requirements, the director shall
71 issue an appropriate emergency medical service personnel
72 certificate to the applicant. Emergency medical service
73 personnel certificates issued by the director shall be valid
74 for a period not to exceed three years from the date of their
75 issuance unless sooner suspended or revoked by the
76 director. Certificates may be renewed for additional

77 periods not to exceed three years after review and
78 determination by the director that such holder meets the
79 requirements established for emergency medical service
80 personnel.

81 (4) The director may issue a temporary emergency
82 medical service personnel certificate to an applicant, with
83 or without examination of the applicant, when he finds
84 such issuance to be in the public interest. Unless sooner
85 suspended or revoked a temporary certificate shall be valid
86 initially for a period not exceeding one hundred twenty
87 days and it shall not be renewed thereafter unless the
88 director finds such renewal to be in the public interest:
89 *Provided*, That the expiration date of any such temporary
90 certificate issued shall be extended until the holder of such
91 certificate is afforded at least one opportunity to take an
92 emergency medical services personnel training course
93 within the general area where he serves as an emergency
94 medical service personnel, but the expiration date shall not
95 be extended for any longer period of time or for any other
96 reason.

97 The director may, on petition from an emergency medical
98 service provider, squad, ambulance authority or county
99 commission, grant an extension for compliance with
100 paragraphs (1) and (2) of this section where circumstances
101 prevent such emergency medical service provider, squad,
102 ambulance authority or county commission from meeting
103 the time frames indicated. Such extension shall be for no
104 longer than twelve calendar months from the date of the
105 request, and the request for extension must include such
106 information as may be required by the director to determine
107 if all reasonable efforts have been made to comply with this
108 section. No petitioner shall be granted more than one
109 extension under this section.

**§16-4C-9. Suspension or revocation of certificate or temporary
certificate.**

1 (a) The director may at any time upon his own motion,
2 and shall, upon the verified written complaint of any
3 person, cause an investigation to be conducted to determine
4 whether there are any grounds for the suspension or
5 revocation of a certificate or temporary certificate issued
6 under the provisions of this article.

7 (b) The director shall suspend or revoke any certificate
8 or temporary certificate when he finds the holder thereof
9 has:

10 (1) Obtained a certificate or temporary certificate by
11 means of fraud or deceit; or

12 (2) Been grossly incompetent and/or grossly negligent
13 as defined by the director in accordance with rules and
14 regulations or by prevailing standards of emergency
15 medical services care; or

16 (3) Failed or refused to comply with the provisions of
17 this article or any reasonable rule and regulation
18 promulgated by the director hereunder or any order or final
19 decision of the director.

20 (c) The director shall suspend or revoke any certificate
21 or temporary certificate if he finds the existence of any
22 grounds which would justify the denial of an application for
23 such certificate or temporary permit if application were
24 then being made for it.

**§16-4C-10. Notice of refusal, suspension or revocation of
certificate; appeals to director; judicial review.**

1 An application for an original emergency medical service
2 personnel certificate, for the renewal of an emergency
3 medical service personnel certificate or for a temporary
4 emergency medical service personnel certificate, shall be
5 acted upon by the director and the director's certificate
6 delivered or mailed, or a copy of any order of the director
7 denying any such application delivered or mailed to the
8 applicant, by the director within fifteen days after the date
9 upon which such application including test scores, if
10 applicable, was received by the director.

11 Whenever the director refuses to issue an emergency
12 medical service personnel certificate or a temporary
13 emergency medical service personnel certificate, or
14 suspends or revokes an emergency medical service
15 personnel certificate, or a temporary emergency medical
16 service personnel certificate, he shall make and enter an
17 order to that effect, which order shall specify the reasons for
18 such denial, suspension or revocation, and shall cause a
19 copy of such order to be served in person or by certified
20 mail, return receipt requested, on the applicant or
21 certificate holder, as the case may be.

22 Whenever a certificate is suspended or revoked, the
23 director shall in the order of suspension or revocation direct
24 the holder thereof to return his certificate to the director. It
25 shall be the duty of such certificate holder to comply with
26 any such order following expiration of the period provided
27 for an appeal to the director.

28 Any applicant or certificate holder, as the case may be,
29 adversely affected by an order made and entered by the
30 director may appeal to the director for an order vacating or
31 modifying such order or for such order as the director
32 should have entered. The person so appealing shall be
33 known as the appellant. An appeal shall be perfected by
34 filing a notice of appeal with the director within ten days
35 after the date upon which the appellant received the copy of
36 such order. The notice of appeal shall be in such form and
37 contain such information as may be prescribed by the
38 director, but in all cases shall contain a description of any
39 order appealed from and the grounds for said appeal. The
40 filing of the notice of appeal shall operate to stay or suspend
41 execution of any order which is the subject matter of the
42 appeal. All of the pertinent provisions of article five,
43 chapter twenty-nine-a of this code apply to and govern the
44 hearing on appeal and the administrative procedures in
45 connection with and following such hearing, with like
46 effect as if the provisions of said article five, chapter
47 twenty-nine-a of this code were set forth in extenso herein.

48 The director shall set a hearing date which shall be not
49 less than ten days after he received the notice of appeal
50 unless there is a postponement or continuance. The director
51 may postpone or continue any hearing on his own motion, or
52 for good cause shown upon the application of the appellant.
53 The appellant shall be given notice of said hearing in person
54 or by certified mail, return receipt requested. Any such
55 hearing shall be held in Charleston, Kanawha County, West
56 Virginia, unless another place is specified by the director.

57 After such hearing and consideration of all of the
58 testimony, evidence and record in the case, the director
59 shall make and enter an order affirming, modifying or
60 vacating his initial order or shall make and enter any new
61 order. Such order shall be accompanied by findings of fact
62 and conclusions of law as specified in section three, article
63 five, chapter twenty-nine-a of this code, and a copy of such

64 order and accompanying findings and conclusions shall be
65 served upon the appellant, in person or by certified mail,
66 return receipt requested. The order of the director shall be
67 final unless vacated or modified upon judicial review
68 thereof.

69 Any appellant adversely affected by a final order made
70 and entered by the director is entitled to judicial review
71 thereof. All of the pertinent provisions of section four,
72 article five, chapter twenty-nine-a of this code shall apply
73 to and govern such review with like effect as if the
74 provisions of said section four, article five, chapter twenty-
75 nine-a of this code were set forth in extenso herein. The
76 judgment of the circuit court shall be final unless reversed,
77 vacated or modified on appeal to the supreme court of
78 appeals in accordance with the provisions of section one,
79 article six, chapter twenty-nine-a of this code.

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

1 Any patient who receives ambulance service and who is
2 unable to give his consent to or contract for the service,
3 whether or not he has agreed or consented to liability for the
4 service, shall be liable in implied contract to the entity
5 providing the ambulance service for the cost thereof.

6 Any person who receives ambulance service upon his
7 request for such service shall be liable for the cost thereof.

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

1 Any person who operates an ambulance with an
2 insufficient number of emergency medical service
3 personnel aboard when not lawfully permitted to do so, or
4 who represents himself as a certified emergency medical
5 service personnel knowing such representation to be untrue
6 shall be guilty of a misdemeanor, and, upon conviction
7 thereof, shall be fined not less than one hundred dollars nor
8 more than one thousand dollars.

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

1 Whenever it appears to the director that any person has
2 been or is violating or is about to violate any provisions of
3 this article or any final order of the director, the director
4 may apply in the name of the state, to the circuit court of the
5 county in which the violation or violations or any part

6 thereof has occurred, is occurring or is about to occur, for an
7 injunction against such person and any other persons who
8 have been, are or are about to be, involved in, or in any way
9 participating in, any practices, acts or omissions, so in
10 violation, enjoining such person or persons from any such
11 violation or violations. Such application may be made and
12 prosecuted to conclusion whether or not any such violation
13 or violations have resulted or shall result in prosecution or
14 conviction under the provisions of section twelve of the
15 article.

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

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

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

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

1 Notwithstanding any other provision of law, emergency
2 medical service personnel, by each class, may provide the
3 following care:

4 (1) Emergency medical services attendant — Render
5 basic first-aid and cardiopulmonary resuscitation and
6 other services as are established by the director.

7 (2) Emergency medical technician — Render care which
8 may be performed by an emergency medical services
9 attendant, and other services as are established by the
10 director.

11 (3) Emergency medical technician-ambulance —
12 Render the care permitted which may be performed by an
13 emergency medical service attendant and by an emergency
14 medical technician, and in addition, other services as are
15 established by the director.

16 (4) Emergency medical technician-intermediate —
 17 Render the care permitted which may be performed by an
 18 emergency medical service attendant, emergency medical
 19 technician, and emergency medical technician-ambulance,
 20 and in addition, upon the order of a medical command
 21 physician or surgeon and other services as are established
 22 by the director.

23 (5) Mobile intensive care paramedic — Render care
 24 which may be performed by an emergency medical service
 25 attendant, an emergency medical technician, emergency
 26 medical technician-ambulance, emergency medical
 27 technician-intermediate; and, in addition, upon order of a
 28 medical command physician or surgeon, perform any other
 29 services as are established by the director.

30 (6) Emergency medical technician-paramedic —
 31 Render care which may be performed by an emergency
 32 medical service attendant, an emergency medical
 33 technician, an emergency medical technician-ambulance,
 34 emergency medical technician-intermediate, mobile
 35 intensive care paramedic, and in addition, upon order of a
 36 medical command physician or surgeon perform any other
 37 services as are established by the director.

**§16-4C-15. Powers of emergency medical technicians-
 intermediate, mobile intensive care paramedics
 and emergency medical technicians-paramedic
 during emergency communications failures
 and disasters.**

1 (1) If radio or telephone communications between an
 2 emergency medical technician-intermediate, a mobile
 3 intensive care paramedic or an emergency medical
 4 technician-paramedic and physician fail during an
 5 emergency situation, such emergency medical technician-
 6 intermediate, mobile intensive care paramedic or
 7 emergency medical technician-paramedic may perform any
 8 procedure for which such emergency medical technician-
 9 intermediate, mobile intensive care paramedic or
 10 emergency medical technician-paramedic is authorized by
 11 section fourteen of this article if in the judgment of the
 12 emergency medical technician-intermediate, mobile
 13 intensive care paramedic or emergency medical technician-

14 paramedic the life of the patient is in immediate danger and
15 such care is required to preserve life.

16 (2) In the event of a disaster or other occurrence where
17 the communication system between emergency medical
18 technician-intermediate, mobile intensive care paramedic
19 or emergency medical technician-paramedic and physician
20 is unable to adequately convey individual direction to the
21 emergency medical technician-intermediate, mobile
22 intensive care paramedic or emergency medical technician-
23 paramedic, such emergency medical technician-
24 intermediate, mobile intensive care paramedic or
25 emergency medical technician-paramedic may perform
26 such services as are authorized by section fourteen of this
27 article without direct voice contact with a medical
28 command physician or written order of a medical command
29 physician, and may release immediate control of such
30 patient upon whom such services have been performed to
31 any emergency medical services personnel in order that
32 such emergency medical technician-intermediate, mobile
33 intensive care paramedic or emergency medical technician-
34 paramedic may provide immediate services to other
35 patients affected by such disaster or such other occurrence.

36 (3) In the event that services are provided under the
37 circumstances contemplated by this section, such
38 emergency medical technician-intermediate, mobile
39 intensive care paramedic or emergency medical technician-
40 paramedic shall, within five days of the providing of such
41 services, make a report to the director on forms prescribed
42 by the director of what services were performed, the
43 identity of the patient or patients upon whom such services
44 were performed and the circumstances justifying the
45 provision of such services and such other information as
46 may be required by the director.

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

1 (1) On and after the first day of July, one thousand nine
2 hundred eighty-five, every person, corporation, ambulance
3 service, emergency medical service provider, emergency
4 ambulance authority, emergency ambulance service, other
5 persons which employ emergency medical services
6 personnel with or without wages for ambulance service or

7 provides ambulance service in any manner, shall obtain a
8 policy of insurance insuring such person or entity and every
9 employee, agent or servant thereof, against loss from the
10 liability imposed by law for damages arising from any error
11 or omission in the provision of emergency medical services
12 as enumerated by this article, in an amount no less than one
13 hundred thousand dollars per incident.

14 (2) No emergency medical services personnel or
15 emergency medical services provider shall be liable for civil
16 damages or injuries in excess of the amounts for which such
17 persons or entities are actually insured, unless such
18 damages or injuries are intentionally or maliciously
19 inflicted.

20 (3) Every person or entity required to obtain a policy of
21 insurance as contemplated by this section, shall furnish to
22 the director on or before the first day of January of each
23 calendar year proof of the existence of the policy of
24 insurance required by this section.

25 (4) In the event that any such person or entity fails to
26 secure a policy of insurance on or before the first day of
27 July, one thousand nine hundred eighty-five, or before such
28 person or entity undertakes the provision of emergency
29 medical services or ambulance services, whichever shall
30 occur last, and keep such policy of insurance in force
31 thereafter, that person or entity is not entitled to the limited
32 immunity created by subsection (2): *Provided*, That any
33 physician or surgeon, who gives instructions to emergency
34 medical service personnel without being compensated
35 therefor, or who treats any patient transported in an
36 ambulance or treats any patient prior to such transport,
37 without being compensated therefor, shall be entitled to the
38 limited immunity provided in subsection (2) of this section.

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

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

8 legally authorized to refuse to consent to the providing of
9 such care.

10 Nothing in this act shall be construed to require medical
11 treatment or transportation for any adult in contravention
12 of his or her stated objection thereto upon religious
13 grounds.

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

1 When any department, agency or entity which provides
2 emergency medical services under the authority of this
3 article is responding to, operating at or returning from
4 emergencies, any emergency medical services personnel
5 serving in the capacity of an emergency medical services
6 line officer in charge, shall control and direct the providing
7 of emergency medical services. The emergency medical
8 service personnel serving in the capacity of an emergency
9 medical services line officer shall determine whether a
10 patient shall be transported from the emergency scene,
11 determine what care shall be rendered prior to such
12 transport, determine what appropriate facility to which
13 such patient shall be transported, and otherwise fully direct
14 and control the providing of emergency medical services
15 and patient care.

16 Nothing included in this section shall be construed to
17 restrict or interfere with the authority of a fire officer in
18 charge to supervise or direct those fire department
19 personnel under his command or to restrict any person from
20 entering a hazardous area for which such fire officer has
21 assumed the responsibility.

**§16-4C-19. Obstructing emergency medical service
personnel.**

1 Any person who knowingly or intentionally obstructs or
2 interferes with emergency medical services or rescue
3 personnel performing or attempting to perform functions or
4 duties as emergency medical services or rescue personnel
5 shall be guilty of a misdemeanor, and, upon conviction
6 thereof, shall be fined not more than one thousand dollars
7 or confined in the county jail for a period not exceeding one
8 year, or both fined and confined.

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

1 Any persons or entities providing lawful emergency
2 medical services under the provisions of this article are
3 hereby authorized in their discretion to enter into and
4 renew service reciprocity agreements, for such period as
5 they may deem advisable, with the appropriate emergency
6 medical services providers, county, municipal or other
7 governmental units or in counties contiguous to the state of
8 West Virginia in the state of Ohio, the commonwealth of
9 Pennsylvania, the state of Maryland, the commonwealth of
10 Virginia or the commonwealth of Kentucky, in order to
11 establish and carry into effect a plan to provide mutual aid
12 across state lines, through the furnishing of properly
13 certified personnel and equipment for the provision of
14 emergency medical services in this state and such counties
15 contiguous to this state upon written approval by the
16 director.

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

28 The director is hereby authorized to enter into service
29 reciprocity agreements with appropriate officials in other
30 states for the purpose of providing emergency medical
31 services to the citizens of this state by emergency medical
32 service personnel properly certified in their respective state
33 or states. A formal agreement between the director and an
34 authorized official of another state must be in effect prior to
35 such service being provided. Individual certification of
36 other state emergency medical service personnel is not
37 required for purposes of providing services to West Virginia
38 citizens following the creation of such agreement by the
39 responsible officials.

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

1 The director may issue an order on his own motion upon
2 written request of any emergency medical service provider
3 or county commission in this state, to restrict an out of state
4 provider of emergency medical services or an out of state
5 emergency medical service personnel to a particular
6 geographic area of the state of West Virginia or prohibit
7 such provider or personnel from providing emergency
8 medical services within the borders of this state when in the
9 opinion of the director such services are not required or do
10 not meet the standards set forth herein or those established
11 by rules and regulations as authorized by this article.

§16-4C-22. Authority of the director to make regulations.

1 The director is hereby authorized and empowered to
2 make regulations pursuant to the procedures established in
3 chapter twenty-nine-a of this code for the purpose of
4 carrying out the purposes of this article into effect.

**CHAPTER 17C. TRAFFIC REGULATIONS AND
LAWS OF THE ROAD.**

ARTICLE 14. MISCELLANEOUS RULES.

§17C-14-9. Following authorized emergency vehicles.

1 The driver of any vehicle other than one on official
2 business may not follow any authorized emergency vehicle
3 traveling in response to a fire alarm or other emergency
4 closer than five hundred feet or drive into or park such
5 vehicle within the block where such authorized emergency
6 vehicle has stopped in answer to a fire alarm or other
7 emergency.

CHAPTER 22. MINES AND MINERALS.

ARTICLE 2C. EMERGENCY MEDICAL PERSONNEL.

§22-2C-1. Emergency personnel in coal mines.

1 (a) Emergency medical services personnel shall be
2 employed on each shift at every mine that: (1) Employs more

3 than ten employees and (2) more than eight persons are
4 present on the shift. Said emergency medical services
5 personnel shall be employed at their regular duties at a
6 central location, or when more than one such person is
7 required pursuant to subsection (b) or (c) at locations,
8 convenient for quick response to emergencies; and further
9 shall have available to them at all times such equipment as
10 shall be prescribed by the director, in consultation with the
11 director of the department of health.

12 (b) Until the first day of July, one thousand nine
13 hundred eighty-five, emergency medical services personnel
14 shall be defined as a medical service attendant as defined in
15 article four-c, chapter sixteen of this code, paramedic as
16 defined in article three-b, chapter thirty of this code, or
17 physician assistant as defined in article three-a, chapter
18 thirty of this code. At least one emergency medical services
19 personnel shall be employed at a mine for every seventy
20 employees or any part thereof who are engaged at one time,
21 in the extraction, production or preparation of coal.

22 (c) After the first day of July, one thousand nine
23 hundred eighty-five, emergency medical services personnel
24 shall be defined as a person who is certified as an emergency
25 medical technician-mining, emergency medical technician,
26 emergency medical technician-ambulance, emergency
27 medical technician-intermediate, mobile intensive care
28 paramedic, emergency medical technician-paramedic as
29 defined in section three, article four-c, chapter sixteen of
30 this code, or physician assistant as defined in section
31 sixteen, article three-a, chapter thirty of this code. At least
32 one emergency medical services personnel shall be
33 employed at a mine for every fifty employees or any part
34 thereof who are engaged at any time, in the extraction,
35 production or preparation of coal.

36 (d) A training course designed specifically for
37 certification of emergency medical technician-mining,
38 shall be developed at the earliest practicable time by the
39 director of health in consultation with the board of miner
40 training, education and certification. The training course
41 for initial certification as an emergency medical
42 technician-mining shall not be less than sixty hours, which
43 shall include, but is not limited to, mast trouser application,
44 basic life support skills, and emergency room observation

45 or other equivalent practical exposure to emergencies as
46 prescribed by the director of the department of health.

47 (e) The maintenance of a valid emergency medical
48 technician-mining certificate may be accomplished
49 without taking a three year recertification examination
50 provided that such emergency medical technician-mining
51 personnel completes an eighty (8) hour annual retraining
52 and testing program prescribed by the director of health in
53 consultation with the board of miner training, education
54 and certification.

55 (f) All emergency medical services personnel currently
56 certified as emergency medical service attendant,
57 emergency medical technician shall receive certification as
58 emergency medical technicians without further training
59 and examination for the remainder of their three year
60 certification period; such emergency medical service
61 attendant, emergency medical technician may upon
62 expiration of such certification become certified as an
63 emergency medical technician-mining upon completion of
64 the eight hour retraining program referred to in subsection
65 (e) above.

CHAPTER 49. CHILD WELFARE.

ARTICLE 6A. REPORTS OF CHILDREN SUSPECTED TO BE ABUSED OR NEGLECTED.

§49-6A-2. Persons mandated to report suspected abuse and neglect.

1 When any medical, dental or mental health professional,
2 Christian Science practitioner, religious healer, school
3 teacher or other school personnel, social service worker,
4 child care or foster care worker, emergency medical
5 services personnel, peace officer or law-enforcement
6 official has the reasonable cause to suspect that a child is
7 neglected or abused or observes the child being subjected to
8 conditions that are likely to result in abuse or neglect, such
9 person shall immediately report the circumstances or cause
10 a report to be made to the state department of human
11 services: *Provided*, That any person required to report
12 under this article who is a member of the staff of a public or
13 private institution, school, facility or agency shall
14 immediately notify the person in charge of such institution,

15 school, facility or agency or a designated agent thereof, who
 16 shall report or cause a report to be made. However, nothing
 17 in this article is intended to prevent individuals from
 18 reporting on their own behalf.

19 In addition to those persons and officials specifically
 20 required to report situations involving suspected abuse or
 21 neglect of children, any other person may make a report if
 22 such person has reasonable cause to suspect that a child has
 23 been abused or neglected in a home or institution or
 24 observes the child being subjected to conditions or
 25 circumstances that would reasonably result in abuse or
 26 neglect.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 6. CRIMES AGAINST THE PEACE.

§61-6-20. Falsely reporting an emergency incident.

1 A person is guilty of reporting a false emergency incident
 2 when knowing the information reported, conveyed or
 3 circulated is false or baseless, he:

4 (1) Initiates or circulates a false report or warning of or
 5 impending occurrence of a fire, explosion, crime,
 6 catastrophe, accident, illness or other emergency under
 7 circumstances in which it is likely that public alarm or
 8 inconvenience will result or that firefighting apparatus,
 9 ambulance apparatus, one or more rescue vehicles or other
 10 emergency apparatus might be summoned; or

11 (2) Reports, by word or action, to any official or quasi-
 12 official agency or organization having the function of
 13 dealing with emergencies involving danger to life or
 14 property, an alleged occurrence or impending occurrence of
 15 a fire, explosion, crime, catastrophe, accident, illness or
 16 other emergency in which it is likely that public alarm or
 17 inconvenience will result or that firefighting apparatus,
 18 ambulance apparatus, one or more rescue vehicles or other
 19 emergency apparatus might be summoned, which did not
 20 occur, does not in fact exist; or

21 (3) Reports to a law-enforcement officer or agency the
 22 alleged occurrence of any offense or incident which did not
 23 in fact occur or an allegedly impending occurrence of an
 24 offense or incident which is not in fact about to occur or

25 false information relating to an actual offense or incident or
26 to the alleged implication of some person therein; or

27 (4) Without just cause, calls or summon by telephone,
28 fire alarm system or otherwise, any firefighting apparatus,
29 ambulance apparatus, rescue vehicles or other emergency
30 vehicles.

31 Any person who violates this section is guilty of a
32 misdemeanor, and, upon conviction thereof, shall be fined
33 not more than five hundred dollars or confined in the
34 county jail not more than six months, or both fined and
35 confined.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Samuel E. Cohen
.....
Chairman Senate Committee

Ronald Anello
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Jack C. Mills
.....
Clerk of the Senate

Donald L. Hoyle
.....
Clerk of the House of Delegates

Walter R. Mosier
.....
President of the Senate

Walter M. Lee, Jr.
.....
Speaker House of Delegates

The within *is approved* this the *30*
day of *March*, 1984.

John R. Dwyer
.....
Governor



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