

No. 263

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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)

—•—

PASSED March 10, 1984

In Effect ninety days from Passage



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

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

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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  
^ 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

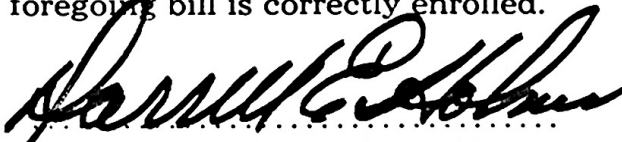
21 (3) Reports to a law-enforcement officer or agency the  
22 alleged occurrence of any offense or incident which did not  
23 in fact occur or an allegedly impending occurrence of an  
24 offense or incident which is not in fact about to occur or

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.


  
.....  
Chairman Senate Committee


  
.....  
Chairman House Committee


Originated in the Senate.

In effect ninety days from passage.

  
.....  
Clerk of the Senate

  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker House of Delegates

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

.....  
  
.....  
Governor

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