WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1996

ENROLLED

Committee Substitute for

SENATE BILL NO. 262

(By Senator Tomblin, presiding)

PASSED March 9, 1996
In Effect NINETY DAYS FROM PASSAGE
AN ACT to amend and reenact article four-c, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section six-a, all relating to establishing emergency medical services agencies; defining new terms and amending certain definitions; deleting references to the director; placing the office of emergency medical services within the bureau of public health; amending the composition of the advisory council, defining the length of members terms, terminating the existing council and appointing a new council on a date certain, staggering terms of newly appointed members; authorizing licensure of emergency medical services agencies, authorizing promulgation of legislative rules to determine licensure fees; deleting obsolete references to past-time require-
ments; establishing criminal penalties for violations of licensure; authorizing legislative rules for determining the services that may be provided by each class of personnel; and creating criminal penalties for obstructing, interfering with or causing bodily injury and specifying criminal penalties.

Be it enacted by the Legislature of West Virginia:

That article four-c, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section six-a, all to read as follows:

ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

§16-4C-1. Short title.

1 This article shall be known as the “Emergency Medical Services Act of 1996”.

§16-4C-2. Purposes of article.

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

§16-4C-3. Definitions.

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

   (a) "Ambulance" means any privately or publicly-owned vehicle or aircraft which is designed, constructed or modified; equipped or maintained; and operated for the transportation of patients;

   (b) "Commissioner" means the commissioner of the bureau of public health;

   (c) "Council" means the emergency medical service advisory council created pursuant to section five of this article;

   (d) "Emergency medical services" means all services which are set forth in Public Law 93-154 "The Emergency Medical Services Act of 1973" and those included in and made a part of the emergency medical services plan of the department of health and human resources inclusive of, but not limited to, responding to the medical needs of an individual to prevent the loss of life or aggravation of illness or injury;

   (e) "Emergency medical service agency" means any agency licensed under section six-a of this article to provide emergency medical services;

   (f) "Emergency medical service attendant" means a person certified by the commissioner pursuant to the provisions of section eight of this article to render the services authorized pursuant to the provisions of section fourteen of this article;

   (g) "Emergency medical service personnel" means any person certified by the commissioner to provide emergency medical services authorized in section eight of this article and includes, but is not limited to, emergency medical service attendant, emergency medical
33 technician-basic and emergency medical technician-paramedic;
34 (h) “Emergency medical service provider” means any
35 authority, person, corporation, partnership or other
36 entity, public or private, which owns or operates a
37 licensed emergency medical services agency providing
38 emergency medical service in this state;
39 (i) “Emergency medical technician-basic” means a
40 person certified by the commissioner pursuant to the
41 provisions of section eight of this article to render the
42 services authorized pursuant to the provisions of section
43 fourteen of this article;
44 (j) “Emergency medical technician-paramedic” means
45 a person certified by the commissioner pursuant to the
46 provisions of section eight of this article to render
47 services as authorized pursuant to the provisions of
48 section fourteen of this article;
49 (k) “Governing body” has the meanings ascribed to it
50 as applied to a municipality in subdivision (1), subsec-
51 tion (b), section two, article one, chapter eight of this
52 code;
53 (l) “Line officer” means the emergency medical service
54 personnel, present at the scene of an accident, injury or
55 illness, who has taken the responsibility for patient care;
56 (m) “Medical command” means the issuing of orders by
57 a physician from a medical facility to emergency medical
58 service personnel for the purpose of providing appropri-
59 ate patient care;
60 (n) “Municipality” has the meaning ascribed to it in
61 subdivision (1), subsection (a), section two, article one,
62 chapter eight of this code;
63 (o) “Patient” means any person who is a recipient of
64 the services provided by emergency medical services;
65 (p) “Service reciprocity” means the provision of
66 emergency medical services to citizens of this state by
emergency medical service personnel certified to render those services by a neighboring state; and

(q) "Small emergency medical service provider" means any emergency medical service provider which is made up of less than twenty emergency medical service personnel.

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

There is hereby created within state government under the commissioner of the bureau of public health an office to be known as the office of emergency medical services. The commissioner may employ any technical, clerical, stenographic and other personnel as may be necessary to carry out the purposes of this article. The personnel may be paid from funds appropriated therefor or from other funds as may be made available for carrying out the purposes of this article.

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

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

The emergency medical services advisory council, heretofore created and established by former section seven of this article, shall be continued for the purpose of developing, with the commissioner, standards for emergency medical service personnel and for the purpose of providing advice to the office of emergency medical services and the commissioner with respect to reviewing and making recommendations for and providing assistance to the establishment and maintenance of adequate emergency medical services for all portions of this state.

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

The council shall be composed of fifteen members
appointed by the governor by and with the advice and
consent of the Senate. The mountain state emergency
medical services association shall submit to the governor
a list of six names of representatives from their associa-
tion and a list of three names shall be submitted to the
governor of representatives of their respective organiza-
tions by the county commissioners' association of West
Virginia, the West Virginia state firemen's association,
the West Virginia hospital association, the West Virginia
chapter of the American college of emergency physi-
cians, the West Virginia emergency medical services
administrators association, the West Virginia emergency
medical services coalition, the ambulance association of
West Virginia, the county commissioner's association
and the state department of education. The governor
shall appoint from the respective lists submitted, two
persons who represent the mountain state emergency
medical services association, one of whom shall be a
paramedic and one of whom shall be an emergency
medical technician-basic, and one person from the
county commissioners' association of West Virginia, the
West Virginia state firemen's association, the West
Virginia hospital association, the West Virginia chapter
of the American college of emergency physicians, the
West Virginia emergency medical services administrators
association, the West Virginia emergency medical
services coalition, the ambulance association of West
Virginia and the state department of education. In
addition the governor shall appoint one person to
represent emergency medical service providers operating
within the state, one person to represent small emer-
gency medical service providers operating within this
state and three persons to represent the general public.
Not more than six of the members may be appointed
from any one congressional district.

The current advisory council members' terms shall end
on the thirtieth day of June, one thousand nine hundred ninety-six, and, pursuant to the provisions of this section, the governor shall appoint an advisory council on the first day of July, one thousand nine hundred ninety-six. Of those first appointed, one-third shall serve for one year, one-third shall serve for two years and one-third shall serve for three years. Each subsequent term is to be for three years and no member may serve more than four consecutive terms.

The council shall choose its own chairman and meet at the call of the commissioner at least twice a year.

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

The Legislature hereby finds and declares that the emergency medical services advisory council should be continued and reestablished. Accordingly, notwithstanding the provisions of article ten, chapter four of this code, the emergency medical services advisory council shall continue to exist until the first day of July, one thousand nine hundred ninety-seven, to allow for monitoring of compliance with recommendations contained in the preliminary performance review through the joint committee on government operations.

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

1. The commissioner shall have the following powers and duties:

2. (a) In accordance with chapter twenty-nine-a of this code, to propose rules regarding the age, training, retraining, testing, certification and recertification of emergency medical service personnel: Provided, That the commissioner may not propose any rule required by the provisions of this article until it has been submitted for review to the emergency medical services advisory council and this council has had at least thirty days to review such proposed rule. The council may take no action unless a quorum is present;
(b) To apply for, receive and expend advances, grants, contributions and other forms of assistance from the state or federal government or from any private or public agencies or foundations to carry out the provisions of this article;

(c) To design, develop and annually review a statewide emergency medical services implementation plan. The plan shall recommend aid and assistance and all other acts necessary to carry out the purposes of this article:

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

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

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

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

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

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

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

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

(j) To develop a program to inform the public concerning emergency medical services;

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

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

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

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

Nothing in this article may be construed to allow the commissioner to dissolve, invalidate or eliminate any existing emergency medical service program or ambulance providers in service at the time of adoption of the amendment to this article in the regular session of the Legislature in the year one thousand nine hundred eighty-four, or to deny them fair access to federal and state funding, medical facilities and training programs.
§16-4C-6a. Emergency medical services agency licensure.

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

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

Upon review and consultation with the advisory council the commissioner may, pursuant to the provisions of article three, chapter twenty-nine-a of this code, establish reasonable fee schedules for application and licensure.

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

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

(a) Privately-owned vehicles and aircraft not ordinarily used in the business or service of transporting patients;
8 (b) Vehicles and aircraft used as ambulances in case of a catastrophe or emergency when the ambulances normally staffed by certified emergency medical service personnel based in the locality of the catastrophe or emergency are insufficient to render the service required;

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

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

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

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

1 (a) Every ambulance operated by an emergency medical service agency shall carry at least two personnel. At least one person shall be certified in cardiopulmonary resuscitation or first aid and the person in the patient-compartment shall be minimally certified as an emergency medical technician-basic.

7 (b) As a minimum the training for each class of emergency medical service personnel shall include:

9 (1) Emergency medical service attendant: Shall have earned and possess valid certificates from the department or by authorities recognized and approved by the commissioner;
(2) Emergency medical technician-basic: Shall have successfully completed the course for certification as an emergency medical technician-basic as established by the commissioner or authorities recognized and approved by the commissioner; and

(3) Emergency medical technician-paramedic: Shall have successfully completed the course for certification as an emergency medical technician-paramedic established by the commissioner or authorities recognized and approved by the commissioner.

The foregoing may not be considered to limit the power of the commissioner to prescribe training, certification and recertification standards.

(c) Any person desiring emergency medical service personnel certification shall apply to the commissioner using forms and procedures prescribed by the commissioner. Upon receipt of the application, the commissioner shall determine whether the applicant meets the certification requirements and may examine the applicant, if necessary to make that determination. If it is determined that the applicant meets all of the requirements, the commissioner shall issue an appropriate emergency medical service personnel certificate which shall be valid for a period as determined by the commissioner.

State and county continuing education and recertification programs for all levels of emergency medical service providers shall be available to emergency medical service providers at a convenient site within one hundred miles of the provider's primary place of operation at sites determined by the regional emergency medical services offices. The continuing education program shall be provided at a cost specified in a fee schedule to be promulgated by legislative rule in accordance with the provisions of article three, chapter twenty-nine-a of this code by the department of health to all nonprofit emergency medical service personnel.
(d) The commissioner may issue a temporary emergency medical service personnel certificate to an applicant, with or without examination of the applicant, when he or she finds that issuance to be in the public interest. Unless suspended or revoked, a temporary certificate shall be valid initially for a period not exceeding one hundred twenty days and may not be renewed unless the commissioner finds the renewal to be in the public interest. The expiration date of a temporary certificate shall be extended until the holder is afforded at least one opportunity to take an emergency medical service personnel training course within the general area where he or she serves as an emergency medical service personnel, but the expiration date may not be extended for any longer period of time or for any other reason.

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

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

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

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

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

(3) Failed or refused to comply with the provisions of this article or any reasonable rule promulgated by the commissioner hereunder or any order or final decision of the commissioner.
(c) The commissioner shall suspend or revoke any certificate or temporary certificate if he or she finds the existence of any grounds which would justify the denial of an application for the certificate, temporary permit or license if application were then being made for it.

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

An application for an original, renewal or temporary emergency medical service personnel certificate or emergency medical services agency license, shall be acted upon by the commissioner and the certificate delivered or mailed, or a copy of any order of the commissioner denying any such application delivered or mailed to the applicant, within fifteen days after the date upon which the application including test scores, if applicable, was received by the commissioner.

Whenever the commissioner refuses to issue an emergency medical service personnel certificate or a temporary emergency medical service personnel certificate or emergency medical services agency license, or suspends or revokes an emergency medical service personnel certificate, or a temporary emergency medical service personnel certificate, he or she shall make and enter an order to that effect, which shall specify the reasons for the denial, suspension or revocation, and shall cause a copy of the order to be served in person or by certified mail, return receipt requested, on the applicant or certificate or license holder, as the case may be.

Whenever a certificate or license is suspended or revoked, the commissioner shall in the order of suspension or revocation direct the holder thereof to return his or her certificate to the commissioner. It shall be the duty of the certificate or license holder to comply with any such order following expiration of the period provided for an appeal to the commissioner.

Any applicant or certificate or license holder, ad-
versely affected by an order made and entered by the
commissioner may appeal to the commissioner for an
order vacating or modifying the order or for such order
as the commissioner should have entered. The person so
appealing shall be known as the appellant. An appeal
shall be perfected by filing a notice of appeal with the
commissioner within ten days after the date upon which
the appellant received the copy of the order. The notice
of appeal shall be in a form and contain the information
prescribed by the commissioner, but in all cases shall
contain a description of any order appealed from and the
grounds for the appeal. The filing of the notice of appeal
shall operate to stay or suspend execution of any order
which is the subject matter of the appeal. All of the
pertinent provisions of article five, chapter twenty-nine-
a of this code apply to and govern the hearing on appeal
and the administrative procedures in connection with
and following the hearing, with like effect as if the
provisions of said article were set forth in extenso
herein.

The commissioner shall set a hearing date which shall
be not less than ten days after he or she received the
notice of appeal unless there is a postponement or
continuance. The commissioner may postpone or con-
tinue any hearing on his or her own motion, or for good
cause shown upon the application of the appellant. The
appellant shall be given notice of the hearing in person
or by certified mail, return receipt requested. Any such
hearing shall be held in Charleston, Kanawha county,
West Virginia, unless another place is specified by the
commissioner.

After the hearing and consideration of all of the
testimony, evidence and record in the case, the commis-
sioner shall make and enter an order affirming, modify-
ing or vacating his or her initial order or shall make and
enter any new order. The order shall be accompanied by
findings of fact and conclusions of law as specified in
section three, article five, chapter twenty-nine-a of this
code, and a copy of the order and accompanying findings
and conclusions shall be served upon the appellant, in
person or by certified mail, return receipt requested.
The order of the commissioner shall be final unless
vacated or modified upon judicial review thereof.

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

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

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

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

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

1 Any person who violates any condition of licensure or
operates an ambulance with an insufficient number of
emergency medical service personnel aboard when not
lawfully permitted to do so, or who represents himself or
herself as a certified emergency medical service person-
nel knowing the representation to be untrue, is guilty of
a misdemeanor, and, upon conviction thereof, shall be
fined not less than one hundred dollars nor more than
one thousand dollars.

§16-4C-13. Actions to enjoin violations; injunctive relief.
Whenever it appears to the commissioner that any person has been or is violating or is about to violate any provision of this article or any final order of the commissioner, the commissioner may apply in the name of the state, to the circuit court of the county in which the violation or any part thereof has occurred, is occurring or is about to occur, for an injunction against the person and any other persons who have been, are or are about to be, involved in, or in any way participating in, any practices, acts or omissions, so in violation, enjoining the person or persons from any such violation. The application may be made and prosecuted to conclusion whether or not any such violation has resulted or shall result in prosecution or conviction under the provisions of section twelve of this article.

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

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

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

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

Notwithstanding any other provision of law, emergency medical service personnel, by each class, may provide the services as determined by the commissioner by legislative rule pursuant to the provisions of article three, chapter twenty-nine-a.

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

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

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

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

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

(1) Every person, corporation, ambulance service, emergency medical service provider, emergency ambulance authority, emergency ambulance service or other person which employs emergency medical service personnel with or without wages for ambulance service or provides ambulance service in any manner, shall obtain a policy of insurance insuring the person or entity and every employee, agent or servant thereof, against
loss from the liability imposed by law for damages arising from any error or omission in the provision of emergency medical services as enumerated by this article, in an amount no less than one million dollars per incident: Provided, That each emergency medical services agency having less than this amount on the first day of January, one thousand nine hundred ninety-six, shall obtain the policy of insurance required in this section in the amount of one million dollars on or before the first day of March, one thousand nine hundred ninety-seven. New applicants shall obtain the insurance required in this section in the amount of one million dollars.

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

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

(4) In the event that any person or entity fails to secure a policy of insurance before the person or entity undertakes the provision of emergency medical services or emergency medical service agency, whichever occurs last, and keeps the policy of insurance in force thereafter, that person or entity is not entitled to the limited immunity created by subsection (2) of this section: Provided, That any physician, who gives instructions to emergency medical service personnel without being compensated therefor, or who treats any patient transported in an ambulance or treats any patient prior to the transport, without being compensated therefor, is entitled to the limited immunity provided in subsection (2) of this section.
§16-4C-17. Limitation of liability for failure to obtain consent.

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

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

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

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

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

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

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

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

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

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

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

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

The commissioner is hereby authorized to enter into
service reciprocity agreements with appropriate officials
in other states for the purpose of providing emergency
medical services to the citizens of this state by emer-
gency medical service personnel properly certified in
their respective state or states. A formal agreement
between the commissioner and an authorized official of
another state shall be in effect prior to the service being
provided. Individual certification of other state emer-
gency medical service personnel is not required for
purposes of providing services to West Virginia citizens
following the creation of the agreement by the responsi-
ble 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.
The commissioner may issue an order on his or her own motion upon written request of any emergency medical service provider or county commission in this state, to restrict an out-of-state provider of emergency medical services or an out-of-state emergency medical service personnel to a particular geographic area of the state of West Virginia or prohibit the provider or personnel from providing emergency medical services within the borders of this state when in the opinion of the commissioner the services are not required or do not meet the standards set forth herein or those established by rules as authorized by this article.

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

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

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

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

The commissioner shall promulgate rules pursuant to the provisions of article three, chapter twenty-nine-a of this code to carrying out the purposes of this article.
That 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 1st day of April, 1996.

Governor