WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2012

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4028

(By Delegates Staggers, Butcher, Mahan, Moye and Perry)

Passed March 10, 2012

To Take Effect Ninety Days From Passage
AN ACT to amend and reenact § 16-4C-6 and § 16-4C-9 of the Code of West Virginia, 1931, as amended, all relating to emergency medical services; authorizing the commissioner of the Bureau of Public Health to promulgate rules relating to the temporary suspension of a certification of an individual emergency medical service provider; providing that the commissioner may temporarily suspend the certification of an individual emergency medical service provider in certain circumstances prior to a hearing or notice; permitting the commissioner to rely on information supplied by a physician that serves as a medical director when temporarily suspending the certification of an individual emergency medical service provider; and requiring commissioner institute proceedings for a hearing if an individual emergency medical provider’s certification is temporarily suspended.

Be it enacted by the Legislature of West Virginia:

That § 16-4C-6 and § 16-4C-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:
ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

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

The commissioner has the following powers and duties:

(a) To propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code: Provided, That the rules have been submitted at least thirty days in advance for review by the Emergency Medical Services Advisory Council, who may act only in the presence of a quorum. The rules may include:

1. Standards and requirements for certification and recertification of emergency medical service personnel, including, but not limited to:
   - Age, training, testing and continuing education;
   - Procedures for certification and recertification, and for denying, suspending, revoking, reinstating and limiting a certification or recertification;
   - Levels of certification and the scopes of practice for each level;
   - Standards of conduct; and
   - Causes for disciplinary action and sanctions which may be imposed.

2. Standards and requirements for licensure and licensure renewals of emergency medical service agencies, including:
(A) Operational standards, levels of service, personnel qualifications and training, communications, public access, records management, reporting requirements, medical direction, quality assurance and review, and other requirements necessary for safe and efficient operation;

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

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

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

(E) Causes for disciplinary action against agencies; and

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

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

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

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

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

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

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

(c) To design, develop and review 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.

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

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

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

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

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

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

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

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

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

(1) Obtained a certificate, temporary certificate or license
by means of fraud or deceit; or
(2) Been grossly incompetent, 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 legislative rule promulgated by the commissioner or any order or final decision of the commissioner; or

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

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

(j) Disciplinary action may include:

(1) Reprimand;

(2) Probation;

(3) Administrative penalties and fines;

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

(5) Practicing under supervision or other restriction;
(6) Requiring the licensee or holder of a certificate to report to the commissioner or director for periodic interviews for a specified period of time;

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

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

(k) The commissioner shall suspend or revoke any certificate, temporary certificate or license if he or she finds the existence of any grounds which would justify the denial of an application for the certificate, temporary certificate or license if application were then being made for it.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.
To take effect ninety days from passage.

Clerk of the House of Delegates
Darrell E.IBLE
Clerk of the Senate

Speaker of the House of Delegates
Jeffrey D. K. KENYON
President of the Senate

The within is approved this the 30th day of ______________, 2012.

Governor
PRESENTED TO THE GOVERNOR

MAR 19 2012

Time   11:10 AM