

1 **H. B. 4028**

2
3 (By Delegate Staggers, Butcher, Mahan, Moye and Perry)

4 [Introduced January 12, 2012; referred to the
5 Committee on Health and Human Resources then the Judiciary.]

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10 A BILL to amend and reenact §16-4C-6 and §16-4C-9 of the Code of
11 West Virginia, 1931, as amended, all relating to emergency
12 medical services; clarifying rule-making authority; and
13 providing for the temporary suspension of certification of
14 emergency medical service personnel or licensure of emergency
15 medical service agencies without a hearing or prior notice in
16 certain circumstances.

17 *Be it enacted by the Legislature of West Virginia:*

18 That §16-4C-6 and §16-4C-9 of the Code of West Virginia, 1931,
19 as amended, be amended and reenacted, all to read as follows:

20 **ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.**

21 **§16-4C-6. Powers and duties of commissioner.**

22 The commissioner has the following powers and duties:

23 (a) To propose rules for legislative approval in accordance
24 with the provisions of article three, chapter twenty-nine-a of this

1 code: *Provided*, That the rules have been submitted at least thirty
2 days in advance for review by the Emergency Medical Services
3 Advisory Council, who may act only in the presence of a quorum.

4 The rules may include:

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

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

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

12 © Levels of certification and the scopes of practice for each
13 level;

14 (D) Standards of conduct; and

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

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

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

24 (B) Inspection standards and establishment of improvement

1 periods to ensure maintenance of the standards;

2 © Fee schedules for licensure, renewal of licensure and other
3 necessary costs;

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

6 (E) Causes for disciplinary action against agencies; and

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

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

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

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

19 (6) Provision of services by emergency medical services
20 personnel in hospital emergency rooms; ~~and~~

21 (7) Authorization for the temporary suspension of
22 certification of emergency medical service personnel or licensure
23 of emergency medical service agencies without a hearing or prior
24 notice if there is probable cause that the conduct or continued

1 service or practice of any licensee or certificate holder may
2 create a danger to public health or safety; and

3 ~~(7)~~(8) Any other rules necessary to carry out the provisions
4 of this article.

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

9 © To design, develop and review a Statewide Emergency Medical
10 Services Implementation Plan. The plan shall recommend aid and
11 assistance and all other acts necessary to carry out the purposes
12 of this article:

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

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

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

23 (e) To assist local government agencies, regional emergency
24 medical services boards of directors and other public or private

1 entities in obtaining federal, state or other available funds and
2 services.

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

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

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

14 (I) To expend and distribute by grant or bailment funds and
15 property to all state and local agencies for the purpose of
16 performing the duties and responsibilities of the agency all funds
17 which it may have so acquired or which may have been appropriated
18 by the Legislature of this state.

19 (j) To develop a program to inform the public concerning
20 emergency medical services.

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

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

1 services.

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

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

13 **§16-4C-9. Complaints; investigations; due process procedure;**
14 **grounds for disciplinary action.**

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

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

24 © After reviewing any information obtained through an

1 investigation, the commissioner or director shall determine if
2 probable cause exists that the licensee or certificate holder has
3 violated any provision of this article or rules promulgated
4 pursuant to this article.

5 (d) Upon a finding that probable cause exists that the
6 licensee or certificate holder has violated any provision of this
7 article or rules promulgated pursuant to this article, the
8 commissioner or director shall provide a copy of the complaint to
9 the licensee or certificate holder.

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

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

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

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

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

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

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

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

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

17 (j) Disciplinary action may include:

18 (1) Reprimand;

19 (2) Probation;

20 (3) Administrative penalties and fines;

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

23 (5) Practicing under supervision or other restriction;

24 (6) Requiring the licensee or holder of a certificate to

1 report to the commissioner or director for periodic interviews for
2 a specified period of time;

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

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

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

14 (l) An agency medical director or a regional medical director,
15 as defined in legislative rule, may request that the commissioner
16 or director temporarily suspend certification of emergency medical
17 service personnel or licensure of emergency medical service
18 agencies without a hearing or prior notice if there is probable
19 cause that the conduct or continued service or practice of any
20 licensee or certificate holder may create a danger to public health
21 or safety.

NOTE: The purpose of this bill is to expressly authorize the temporary suspension of certification of emergency medical service

personnel or licensure of emergency medical service agencies without a hearing or prior notice if there is probable cause that the conduct or continued service or practice of any licensee or certificate holder may create a danger to public health or safety.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.