

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2626

BY DELEGATES STAGGERS, ANGELUCCI, S. BROWN,

BOGGS AND PAYNTER

[Introduced January 24, 2019; Referred
to the Committee on Health and Human Resources
then Government Organization.]

1 A BILL to amend and reenact §16-4C-3, §16-4C-4, §16-4C-5, and §16-4C-6 of the Code of West
 2 Virginia, 1931, as amended; and to amend said code by adding thereto three new
 3 sections, designated §16-4C-4a, §16-4C-4b and §16-4C-5a, all relating to emergency
 4 medical services; continuing the Office of Emergency Medical Services as an independent
 5 office within the Department of Military Affairs and Public Safety; updating definitions;
 6 creating the positions of Executive Director, Medical Director and Administrative Director
 7 for the office; establishing and clarifying the powers and duties of the directors;
 8 reconstituting the Emergency Medical Service Advisory Council with nine members; and
 9 requirements for the state medical protocols.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

§16-4C-3. Definitions.

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

2 (a) "Administrative Director" means the person, appointed by the executive director in
 3 charge of administration within the Office of Emergency Medical Service;

4 ~~(a)~~ (b) "Ambulance" means any privately or publicly-owned vehicle or aircraft which is
 5 designed, constructed or modified; equipped or maintained; and operated for the transportation
 6 of patients, including, but not limited to, emergency medical services vehicles; rotary and fixed
 7 wing air ambulances; gsa kkk-A-1822 federal standard type I, type II and type III vehicles; and
 8 specialized multipatient medical transport vehicles operated by an emergency medical services
 9 agency;

10 ~~(b) "Commissioner" means the Commissioner of the Bureau for Public Health~~

11 (c) "Council" means the Emergency Medical Service Advisory Council created pursuant
 12 to this article;

13 (d) "Director" means the Executive Director of the Office of Emergency Medical Service.

14 ~~in the Bureau for Public Health~~

15 (e) "Emergency Medical Services" means all services which are set forth in Public Law
16 93-154 "The Emergency Medical Services Systems Act of 1973" and those included in and made
17 a part of the emergency medical services plan of the Department of Health and Human Resources
18 inclusive of, but not limited to, responding to the medical needs of an individual to prevent the loss
19 of life or aggravation of illness or injury;

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

22 (g) "Emergency medical service personnel" means any person certified ~~by the~~
23 ~~commissioner~~ under this article to provide emergency medical services; ~~as set forth by legislative~~
24 ~~rule~~

25 (h) "Emergency medical service provider" means any authority, person, corporation,
26 partnership, or other entity, public or private, which owns or operates a licensed emergency
27 medical services agency providing emergency medical service in this state;

28 (i) "Governing body" ~~has the meanings ascribed to it as applied to a municipality in~~
29 ~~subdivision (1), subsection (b), section two, article one, chapter eight of this code~~ means a political
30 subdivision of this state;

31 (j) "Line officer" means the emergency medical service personnel, present at the scene of
32 an accident, injury or illness, who has taken the responsibility for patient care;

33 (k) "Medical command" means the issuing of orders by a licensed physician ~~from a medical~~
34 ~~facility~~ to emergency medical service personnel for the purpose of providing appropriate patient
35 care;

36 (l) ~~"Municipality" has the meaning ascribed to it in subdivision (1), subsection (a), section~~
37 ~~two, article one, chapter eight of this code~~ "Medical Director" means the licensed physician,
38 appointed by the executive director, in charge of formulating medical protocol for emergency
39 medical service personnel within the Office of Emergency Medical Service;

40 (m) "Office" means the Office of Emergency Medical Services within the Division of

41 Homeland Security and Emergency Management:

42 ~~(m)~~ (n) "Patient" means any person who is a recipient of the services provided by
43 emergency medical services;

44 (o) "Secretary" means the Secretary of the Department of Military Affairs and Public
45 Safety:

46 ~~(n)~~ (p) "Service reciprocity" means the provision of emergency medical services to citizens
47 of this state by emergency medical service personnel certified to render those services by a
48 neighboring state;

49 ~~(e)~~ (q) "Small emergency medical service provider" means any emergency medical service
50 provider which is made up of less than 20 emergency medical service personnel; and

51 ~~(p)~~ (r) "Specialized multipatient medical transport" means a type of ambulance transport
52 provided for patients with medical needs greater than those of the average population, which may
53 require the presence of a trained emergency medical technician during the transport of the patient:
54 *Provided, That the requirement of "greater medical need" may not prohibit the transportation of a*
55 *patient whose need is preventive in nature.*

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

1 ~~There is hereby created within state government under the commissioner of the bureau of
2 public health an office to be known as the office of emergency medical services~~

3 (a) The Office of Emergency Medical Services is continued and commencing July 1, 2019,
4 is an office within the Department of Military Affairs and Public Safety.

5 (b) On or before July 1, 2019, the Secretary of the Department of Military Affairs and Public
6 Safety shall appoint an executive director for the Office of Emergency Medical Services. The
7 executive director must be a graduate of an accredited college or university with at least five years
8 of administrative experience in a medical field.

9 (c) On or before September 1, 2019, the executive director shall appoint the following:

10 (1) A medical director who must be a physician licensed to practice in West Virginia for at

11 least five years and who has at least five years of experience working with or in the field of
12 emergency medical services; and

13 (2) An administrative director who must be a graduate of an accredited college or
14 university with at least five years of administrative experience.

15 The ~~commissioner~~ executive director may employ any technical, clerical, stenographic and
16 other personnel as may be necessary to carry out the purposes of this article. The personnel may
17 be paid from funds appropriated therefor or from other funds as may be made available for
18 carrying out the purposes of this article.

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

§16-4C-4a. Powers and duties of the Medical Director.

1 (a) The executive director appoints the medical director. The medical director is a part-
2 time position as set by the executive director.

3 (b) The medical director may establish and update state medical protocols for emergency
4 medical service agencies and personnel. The medical director shall formulate the state medical
5 protocols with the advice of the Emergency Medical Service Advisory Council.

6 (c) Prior to January 1, 2020, the medical director, with the advice of the council, shall
7 establish the basic state medical protocols that are in concert with the national medical standards.
8 These basic state medical protocols become effective on January 1, 2020.

9 (d) At least every five years after January 1, 2020, or within six months of a change to
10 medical standards at the national level, the medical director, with the advice of the council, shall
11 update the state medical protocols to adhere to the national medical standards for prehospital
12 care.

§16-4C-4b. Powers and duties of the Administrative Director.

1 (a) The executive director appoints the administrative director. This is a full-time position

2 with the salary set by the executive director.

3 (b) The administrative director shall:

4 (1) Set office policy, and oversee and manage the office under the direction of the
5 executive director;

6 (2) Oversee the certification and licensing of emergency medical service agencies and
7 personnel, including enforcing educational requirements;

8 (3) Investigate emergency medical service agencies and personnel;

1 (4) Be the staff for the Emergency Medical Services Advisory Council, including setting
2 meeting dates, providing notice and setting the agenda;

3 (5) Perform cost analyses for the office; and

4 (6) Perform such other duties as directed by the executive director.

§16-4C-5. Emergency Medical Services Advisory Council; duties; composition; appointment; meetings; compensation and expenses.

1 (a) ~~The Emergency Medical Services Advisory Council heretofore created and established~~
2 ~~by former section seven of this article is continued for the purpose of developing standards with~~
3 ~~the Commissioner executive director, standards for emergency medical service personnel and for~~
4 ~~the purpose of providing advice to the Office of Emergency Medical Services and the~~
5 ~~Commissioner with respect to reviewing and making recommendations for, and providing~~
6 ~~assistance to, the establishment and maintenance of adequate emergency medical services for~~
7 ~~all portions of this state.~~

8 ~~(b) The Council shall have the duty to advise the Commissioner in all matters pertaining~~
9 ~~to his or her duties and functions in relation to carrying out the purposes of this article~~

10 ~~(c) (b) Effective July 1, 2019, the Council shall be composed of fifteen the following~~
11 ~~members appointed by the Governor by and with the advice and consent of the Senate: The~~
12 ~~Mountain State Emergency Medical Services Association shall submit to the Governor a list of six~~
13 ~~names of representatives from its Association and a list of three names shall be submitted to the~~
14 ~~Governor of representatives of their respective organizations by the county commissioners'~~

15 ~~Association of West Virginia, the West Virginia State Firemen's Association, the West Virginia~~
16 ~~Hospital Association~~

17 (1) One person representing the West Virginia Chapter of the American College of
18 Emergency Physicians. ~~the West Virginia Emergency Medical Services Administrators~~
19 ~~Association, the West Virginia Emergency Medical Services Coalition, the Ambulance Association~~
20 ~~of West Virginia and the state Department of Education. The Governor shall appoint from the~~
21 ~~respective lists submitted two persons who represent the Mountain State Emergency Medical~~
22 ~~Services Association, one of whom shall be a paramedic and one of whom shall be an emergency~~
23 ~~medical technician-basic; and one person from the county commissioners' Association of West~~
24 ~~Virginia, the West Virginia State Firemen's Association, the West Virginia Hospital Association,~~
25 ~~the West Virginia Chapter of the American College of Emergency Physicians, the West Virginia~~
26 ~~Emergency Medical Services Administrators Association, the West Virginia Emergency Medical~~
27 ~~Services Coalition, the Ambulance Association of West Virginia and the state Department of~~
28 ~~Education. In addition, the Governor shall appoint one person to represent emergency medical~~
29 ~~service providers operating within the state, one person to represent small emergency medical~~
30 ~~service providers operating within this state and three persons to represent the general public Not~~
31 ~~more than six of the members may be appointed from any one congressional district~~

32 (2) One person representing a large for profit EMS provider;

33 (3) One person representing a rural not for profit EMS provider;

34 (4) One person representing Level I or II teaching hospitals;

35 (5) One person representing a rural hospital.

36 (6) One person from each congressional district representing administrators or operating
37 officers of EMS; and

38 (7) One West Virginia licensed physician from each congressional district.

39 ~~(d) (c)~~ Not more than six of the members may be appointed from any one congressional
40 district. Each member must be a resident of this state during the appointment term.

41 ~~(e)~~ (d) The initial appointment terms shall be staggered. After the initial appointment each
 42 term is to be for ~~three~~ five years and no member may serve more than ~~four~~ two consecutive terms.

43 ~~(f)~~ (e) The Council shall annually choose its own ~~chairman~~ chairperson. ~~and meet at the~~
 44 ~~call of the Commissioner at least twice a year.~~

45 (f) ~~The council shall meet quarterly, and any other meetings may be held at the call of the~~
 46 ~~executive director. The meeting may be held in person or by electronic means.~~

47 ~~(h)~~ (g) The members of the Council shall receive compensation and expense
 48 reimbursement in an amount not to exceed the same compensation and expense reimbursement
 49 ~~as is paid to~~ not to exceed the same expense reimbursement as is paid to members of the
 50 Legislature for their interim duties as recommended by the Citizens Legislative Compensation
 51 Commission ~~and authorized by law for each day or substantial portion thereof engaged in the~~
 52 ~~performance of official duties.~~

53 ~~(i)~~ (h) The Governor may remove a board member for neglect of duty, incompetence or
 54 official misconduct.

55 ~~(j)~~ (i) A majority of the board members, regardless of any vacancy, constitutes a quorum.

§16-4C-5a. Powers and duties of the Emergency Medical Services Advisory Council.

1 The Emergency Medical Services Advisory Council may:

2 (1) Advise the medical director when he or she is formulating the state medical protocols
 3 for emergency medical service agencies and personnel;

4 (2) Advise the executive director when he or she is developing the standards for
 5 emergency medical service agencies and personnel;

6 (3) Review and make recommendations for, and provide assistance to, the establishment
 7 and maintenance of adequate emergency medical services for all portions of this state; and

8 (4) Advise in all matters pertaining to carrying out the purposes of this article.

§16-4C-6. POWERS AND DUTIES OF COMMISSIONER THE EXECUTIVE DIRECTOR.

1 (a) The executive director is appointed by the secretary and is a full-time position with the
2 salary set by the secretary.

3 ~~(b)~~ The commissioner executive director has the following powers and duties:

4 (1) To propose rules for legislative approval in accordance with the provisions of §29A-3-
5 1 *et seq.* of this code ~~Provided, That the rules have been submitted at least 30 days in advance~~
6 ~~for review by the Emergency Medical Services Advisory Council, who may act only in the~~
7 ~~presence of a quorum. The rules may that include:~~

8 ~~(4)~~ (A) Standards and requirements for certification and recertification of emergency
9 medical service personnel, including, ~~but not limited to:~~

10 ~~(A)~~ (i) Age, training, testing, and continuing education;

11 ~~(B)~~ (ii) Procedures for certification and recertification, ~~and~~ including procedures and
12 timelines for incomplete applications;

13 (iii) Procedures for denying, suspending, revoking, reinstating, and limiting a certification
14 or recertification;

15 ~~(C)~~ (iv) Levels of certification and the scopes of practice ~~for each level~~ and ~~(D)~~ standards
16 of conduct for each level; ~~and~~

17 (v) Including procedures and timelines for incomplete applications;

18 ~~(E)~~ (vi) Causes for disciplinary action and the sanctions which may be imposed.

19 ~~(2)~~ (B) Standards and requirements for ~~licensure and licensure renewals~~ license and
20 renewal of license of emergency medical service agencies, including:

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

24 ~~(B)~~ (ii) Inspection standards and establishment of improvement periods to ensure
25 maintenance of the standards;

26 ~~(C)~~ (iii) The fee schedules for licensure licenses, renewal of licensure licenses, and other
 27 necessary costs;

28 ~~(D)~~ (iv) Procedures for denying, suspending, revoking, reinstating, or limiting ~~an agency~~
 29 licensure a license;

30 ~~(E)~~ (v) Causes for disciplinary action against agencies; and

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

33 ~~(3)~~ (C) Standards and requirements for emergency medical services vehicles, including
 34 classifications and specifications;

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

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

41 ~~(6)~~ (E) A provision of services by emergency medical service personnel in hospital
 42 emergency rooms;

43 ~~(7)~~ (F) An authorization to temporarily suspend the license or certification of an ~~individual~~
 44 emergency medical services ~~provider~~ agency or personnel prior to a hearing or notice if the
 45 ~~commissioner~~ executive director finds there is probable cause that the conduct or continued
 46 service or practice of ~~any individual~~ a license or certificate holder has or may create a danger to
 47 public health or safety: *Provided*, That the ~~commissioner~~ executive director may rely on
 48 information received from a physician that serves as a squad medical director in finding that
 49 probable cause exists to temporarily suspend the license or certification; and

50 ~~(8)~~ (G) Any other rules necessary to carry out the provisions of this article;

51 ~~(b) To~~ (2) Apply for, receive, and expend advances, grants, contributions, and other forms
52 of assistance from the state or federal government or from any private or public agencies or
53 foundations to carry out the provisions of this article;

54 ~~(c) To~~ (3) Design, develop, and review a Statewide Emergency Medical Services
55 Implementation Plan. The plan shall recommend aid and assistance to ~~and all other acts~~
56 ~~necessary to carry out the purposes of this article:~~

57 (4) (A) To encourage local participation by area, county, and community officials, and
58 regional emergency medical services boards of directors; ~~and~~

59 ~~(2) To~~ (B) Develop a system for monitoring and evaluating emergency medical services
60 programs throughout the state; and

61 (C) Provide all other acts necessary to carry out the purposes of this article.

62 ~~(d) To~~ (4) Provide professional and technical assistance and to make information available
63 to ~~regional emergency medical services boards of directors and other~~ potential applicants or
64 program sponsors of emergency medical services for purposes of developing and maintaining a
65 statewide system of services;

66 ~~(e) To~~ (5) Assist local government agencies, regional emergency medical services boards
67 of directors, and other public or private entities in obtaining federal, state, or other available funds
68 and services;

69 ~~(f) To~~ (6) Cooperate and work with federal, state, and local governmental agencies, private
70 organizations, and other entities as may be necessary to carry out the purposes of this article;

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

74 ~~(h) To~~ (8) Make grants and allocations of funds and property so acquired or which may
75 have been appropriated to the agency to other agencies of state and local government as may
76 be appropriate to carry out the purposes of this article;

77 ~~(i) To (9)~~ Expend and distribute by ~~grant or bailment~~ all funds and property, which it may
78 have acquired by grant of appropriation to all state and local agencies for the purpose of
79 performing the duties and responsibilities of the agency; ~~all funds which it may have so acquired~~
80 ~~or which may have been appropriated by the Legislature of this state~~

81 ~~(j) To (10)~~ Develop a program to inform the public concerning emergency medical
82 services;

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

85 ~~(l) To (11)~~ Prepare and submit to the Governor and Legislature recommendations for
86 legislation in the area of emergency medical services;

87 ~~(m) To (12)~~ Review, make recommendations for, and assist in all projects and programs
88 that provide for emergency medical services whether or not the projects or programs are funded
89 through the Office of Emergency Medical Services. A review and ~~approval~~ advice shall be
90 required for all emergency medical services projects, programs, or services for which application
91 is made to receive state or federal funds for their operation. ~~after the effective date of this act~~

92 ~~(n) To (13)~~ Cooperate with the Department of Administration, Purchasing Division to
93 establish one or more statewide contracts for equipment and supplies utilized by emergency
94 medical services agencies in accordance with §5A-3-1 *et seq.* of this code:

95 ~~(1)~~ (A) Any statewide contract established hereunder shall be made available to any
96 emergency medical services agency licensed under §16-4C-6a of this code that is designated to
97 provide emergency response by one or more county emergency dispatch centers;

98 ~~(2)~~ (B) The office may develop uniform standards for equipment and supplies used by
99 emergency medical services agencies in accordance with §5A-3-1 *et seq.* of this code;

100 ~~(3)~~ (C) The office shall propose legislative rules for promulgation in accordance with §29A-
101 3-1 *et seq.* of this code to effectuate the provisions of this subsection; and

102 ~~(e) To~~ (14) take all necessary and appropriate action to encourage and foster the
103 cooperation of all emergency medical service providers and facilities within this state.

NOTE: The purpose of this bill is to continue the Office of Emergency Medical Services as an independent office within the Department of Military Affairs and Public Safety. It updates definitions; creates the positions of Executive Director, Medical Director and Administrative Director for the Office; and establishes and clarifies the powers and duties of the directors. The bill reconstitutes the Emergency Medical Service Advisory Council with nine members. And, it provides requirements for the state medical protocols.

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