

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 632

BY SENATORS TARR AND PHILLIPS

[Introduced February 14, 2022; referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §5F-2-1 of the Code of West Virginia, 1931, as amended; to amend
 2 and reenact §16-4C-1, §16-4C-2, §16-4C-3, §16-4C-4, §16-4C-5, §16-4C-6, §16-4C-6a,
 3 §16-4C-6b, §16-4C-8, §16-4C-8a, §16-4C-9, §16-4C-10, §16-4C-12, §16-4C-13, §16-4C-
 4 14, §16-4C-15, §16-4C-16, §16-4C-17, §16-4C-18, §16-4C-20, §16-4C-21, §16-4C-23,
 5 and §16-4C-24 of said code; and to amend said code by adding thereto a new section,
 6 designated §16-4C-25, all relating to transferring the Office of Emergency Medical
 7 Services from the Department of Health and Human Resources to the Department of
 8 Homeland Security; providing for an effective date July 1, 2022; transferring all authorities,
 9 powers, funds, duties, and affiliated boards or commissions of the Office of Emergency
 10 Medical Services from the Office of Emergency Medical Services to the Department of
 11 Health and Human Resources; ensuring legislative rules remain in effect and transfer;
 12 transferring Office of Emergency Medical Services employees and director with same
 13 salary and benefits; making employees of the Office of Emergency Medical Services will
 14 and pleasure employees of the Secretary of the Department of Homeland Security;
 15 directing the Secretary of the Department of Homeland Security and the Commissioner of
 16 the Bureau For Public Health and the Secretary of Health and Human Resources to work
 17 with the Director of the Office of Emergency Medical Services to ensure smooth transition;
 18 and making technical corrections to recognize the transfer elsewhere in the code.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

§5F-2-1. Transfer and incorporation of agencies and boards; funds.

1 (a) The following agencies and boards, including all of the allied, advisory, affiliated, or
 2 related entities and funds associated with any agency or board, are incorporated in and

3 administered as a part of the Department of Administration:

4 (1) Public Employees Insurance Agency provided in §5-16-1 *et seq.* of this code;

5 (2) Governor's Mansion Advisory Committee provided in §5A-5-1 *et seq.* of this code;

6 (3) Commission on Uniform State Laws provided in §29-1A-1 *et seq.* of this code;

7 (4) West Virginia Public Employees Grievance Board provided in §6C-3-1 *et seq.* of this
8 code;

9 (5) Board of Risk and Insurance Management provided in §29-12-1 *et seq.* of this code;

10 (6) Boundary Commission provided in §29-23-1 *et seq.* of this code;

11 (7) Public Defender Services provided in §29-21-1 *et seq.* of this code;

12 (8) Division of Personnel provided in §29-6-1 *et seq.* of this code;

13 (9) The West Virginia Ethics Commission provided in §6B-2-1 *et seq.* of this code;

14 (10) Consolidated Public Retirement Board provided in §5-10D-1 *et seq.* of this code; and

15 (11) Real Estate Division provided in §5A-10-1 *et seq.* of this code.

16 (b) The following agencies and boards, including all of the allied, advisory, affiliated, or
17 related entities and funds associated with any agency or board, are incorporated in and
18 administered as a part of the Department of Commerce:

19 (1) Division of Labor provided in §21-1-1 *et seq.* of this code, which includes:

20 (A) Occupational Safety and Health Review Commission provided in §21-3A-1 *et seq.* of
21 this code; and

22 (B) Board of Manufactured Housing Construction and Safety provided in §21-9-1 *et seq.*
23 of this code.

24 (2) Office of Miners' Health, Safety, and Training provided in §22A-1-1 *et seq.* of this code.

25 The following boards are transferred to the Office of Miners' Health, Safety, and Training for
26 purposes of administrative support and liaison with the Office of the Governor:

27 (A) Board of Coal Mine Health and Safety and Coal Mine Safety and Technical Review
28 Committee provided in §22A-6-1 *et seq.* of this code;

29 (B) Board of Miner Training, Education, and Certification provided in §22A-7-1 *et seq.* of
30 this code; and

31 (C) Mine Inspectors' Examining Board provided in §22A-9-1 *et seq.* of this code.

32 (3) Division of Natural Resources and Natural Resources Commission provided in §20-1-
33 1 *et seq.* of this code;

34 (4) Division of Forestry provided in §19-1A-1 *et seq.* of this code;

35 (5) Geological and Economic Survey provided in §29-2-1 *et seq.* of this code;

36 (6) Workforce West Virginia provided in chapter 21A of this code, which includes:

37 (A) Division of Unemployment Compensation;

38 (B) Division of Employment Service;

39 (C) Division of Workforce Development; and

40 (D) Division of Research, Information and Analysis; and

41 (7) Division of Rehabilitation Services provided in §18-10A-1 *et seq.* of this code.

42 (c) The Economic Development Authority provided in §31-15-1 *et seq.* of this code is
43 continued as an independent agency within the executive branch.

44 (d) The Water Development Authority and the Water Development Authority Board
45 provided in §22C-1-1 *et seq.* of this code is continued as an independent agency within the
46 executive branch.

47 (e) The West Virginia Educational Broadcasting Authority provided in §10-5-1 *et seq.* of
48 this code and the State Library Commission provided in §10-1-1 *et seq.* of this code are each
49 continued as separate independent agencies within the Department of Arts, Culture, and History,
50 which shall provide administrative support for both entities.

51 (f) The Division of Culture and History as established in §29-1-1 *et seq.* of this code is
52 continued as a separate independent agency within the Executive Branch as the Department of
53 Arts, Culture, and History. All references throughout this code to the "Division of Culture and
54 History" means the "Department of Arts, Culture, and History".

55 (g) The following agencies and boards, including all of the allied, advisory, and affiliated
56 entities, are transferred to the Department of Environmental Protection for purposes of
57 administrative support and liaison with the Office of the Governor:

58 (1) Air Quality Board provided in §22B-2-1 *et seq.* of this code;

59 (2) Solid Waste Management Board provided in §22C-3-1 *et seq.* of this code;

60 (3) Environmental Quality Board, or its successor board, provided in §22B-3-1 *et seq.* of
61 this code;

62 (4) Surface Mine Board provided in §22B-4-1 *et seq.* of this code;

63 (5) Oil and Gas Inspectors' Examining Board provided in §22C-7-1 *et seq.* of this code;

64 (6) Shallow Gas Well Review Board provided in §22C-8-1 *et seq.* of this code; and

65 (7) Oil and Gas Conservation Commission provided in §22C-9-1 *et seq.* of this code.

66 (h) The following agencies and boards, including all of the allied, advisory, affiliated, or
67 related entities and funds associated with any agency or board, are incorporated in and
68 administered as a part of the Department of Health and Human Resources:

69 (1) Human Rights Commission provided in §5-11-1 *et seq.* of this code;

70 (2) Bureau for Public Health provided in §16-1-1 *et seq.* of this code;

71 ~~(3) Office of Emergency Medical Services and the Emergency Medical Service Advisory~~
72 ~~Council provided in §16-4C-1 *et seq.* of this code;~~

73 ~~(4)~~ (3) Health Care Authority provided in §16-29B *et seq.* of this code;

74 ~~(5)~~ (4) State Commission on Intellectual Disability provided in §29-15-1 *et seq.* of this
75 code;

76 ~~(6)~~ (5) Women's Commission provided in §29-20-1 *et seq.* of this code; and

77 ~~(7)~~ (6) Bureau for Child Support Enforcement provided in chapter 48 of this code.

78 (i) The following agencies and boards, including all of the allied, advisory, affiliated, or
79 related entities and funds associated with any agency or board, are incorporated in and
80 administered as a part of the Department of Homeland Security:

81 (1) West Virginia State Police;
82 (2) Division of Emergency Management provided in §15-5-1 *et seq.* of this code and
83 Emergency Response Commission provided in §15-5A-1 *et seq.* of this code: *Provided, That*
84 notwithstanding any other provision of this code to the contrary, whenever in this code, or a rule
85 promulgated thereunder, a reference is made to the Division of Homeland Security and
86 Emergency Management, it shall be construed to mean the Division of Emergency Management;

87 (3) Division of Administrative Services;

88 (4) Division of Corrections and Rehabilitation;

89 (5) Fire Commission;

90 (6) The State Fire Marshal;

91 (7) Board of Probation and Parole;

92 (8) The West Virginia Fusion Center;

93 (9) The Division of Protective Services; ~~and~~

94 (10) The Office of Emergency Services provided in §16-4C-1 *et seq.* of this code; and

95 ~~(11)~~ (11) Any other agency or entity hereinafter established within the Department of
96 Homeland Security by an act of the Legislature.

97 (j) The following agencies and boards, including all of the allied, advisory, affiliated, or
98 related entities and funds associated with any agency or board, are incorporated in and
99 administered as a part of the Department of Revenue:

100 (1) Tax Division provided in chapter 11 of this code;

101 (2) Racing Commission provided in §19-23-1 *et seq.* of this code;

102 (3) Lottery Commission and position of Lottery Director provided in §29-22-1 of this code;

103 (4) Insurance Commissioner provided in §33-2-1 *et seq.* of this code;

104 (5) West Virginia Alcohol Beverage Control Commissioner provided in §11-16-1 *et seq.* of
105 this code and §60-2-1 *et seq.* of this code;

106 (6) Board of Banking and Financial Institutions provided in §31A-3-1 *et seq.* of this code;

- 107 (7) Lending and Credit Rate Board provided in chapter 47A of this code;
- 108 (8) Division of Financial Institutions provided in §31A-2-1 *et seq.* of this code;
- 109 (9) The State Budget Office provided in §11B-2-1 *et seq.* of this code;
- 110 (10) The Municipal Bond Commission provided in §13-3-1 *et seq.* of this code;
- 111 (11) The Office of Tax Appeals provided in §11-10A-1 of this code; and
- 112 (12) The State Athletic Commission provided in §29-5A-1 *et seq.* of this code.
- 113 (k) The following agencies and boards, including all of the allied, advisory, affiliated, or
- 114 related entities and funds associated with any agency or board, are incorporated in and
- 115 administered as a part of the Department of Transportation:
- 116 (1) Division of Highways provided in §17-2A-1 *et seq.* of this code;
- 117 (2) Parkways Authority provided in §17-16A-1 *et seq.* of this code;
- 118 (3) Division of Motor Vehicles provided in §17A-2-1 *et seq.* of this code;
- 119 (4) Driver's Licensing Advisory Board provided in §17B-2-1 *et seq.* of this code;
- 120 (5) Aeronautics Commission provided in §29-2A-1 *et seq.* of this code;
- 121 (6) State Rail Authority provided in §29-18-1 *et seq.* of this code; and
- 122 (7) Public Port Authority provided in §17-16B-1 *et seq.* of this code.
- 123 (l) Effective July 1, 2011, the Veterans' Council provided in §9A-1-1 *et seq.* of this code,
- 124 including all of the allied, advisory, affiliated, or related entities and funds associated with it, is
- 125 incorporated in and administered as a part of the Department of Veterans' Assistance.
- 126 (m) Except for powers, authority, and duties that have been delegated to the secretaries
- 127 of the departments by of §5F-2-2 of this code, the position of administrator and the powers,
- 128 authority, and duties of each administrator and agency are not affected by the enactment of this
- 129 chapter.
- 130 (n) Except for powers, authority, and duties that have been delegated to the secretaries
- 131 of the departments by §5F-2-2 of this code, the existence, powers, authority, and duties of boards
- 132 and the membership, terms, and qualifications of members of the boards are not affected by the

133 enactment of this chapter. All boards that are appellate bodies or are independent decision
134 makers may not have their appellate or independent decision-making status affected by the
135 enactment of this chapter.

136 (o) Any department previously transferred to and incorporated in a department by prior
137 enactment of this section means a division of the appropriate department. Wherever reference is
138 made to any department transferred to and incorporated in a department created in §5F-1-2 of
139 this code, the reference means a division of the appropriate department and any reference to a
140 division of a department so transferred and incorporated means a section of the appropriate
141 division of the department.

142 (p) When an agency, board, or commission is transferred under a bureau or agency other
143 than a department headed by a secretary pursuant to this section, that transfer is solely for
144 purposes of administrative support and liaison with the Office of the Governor, a department
145 secretary, or a bureau. Nothing in this section extends the powers of department secretaries
146 under §5F-2-2 of this code to any person other than a department secretary and nothing limits or
147 abridges the statutory powers and duties of statutory commissioners or officers pursuant to this
148 code.

149 (q) The Department of Economic Development as established in §5B-2-1 *et seq.* of this
150 code is continued as a separate independent agency within the Executive Branch.

151 (r) The Department of Tourism as established in §5B-2I-1 *et seq.* of this code is continued
152 as a separate independent agency within the Executive Branch.

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 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
 2 and life-preserving emergency medical service to meet the needs of citizens of this state is a
 3 matter of general public interest and concern; (2) to ensure the provision of adequate emergency
 4 medical services within this state for the protection of the public health, safety and welfare, it is
 5 imperative that minimum standards for emergency medical service personnel be established and
 6 enforced by the state; (3) that emergency medical service personnel should meet minimum
 7 training standards promulgated by the ~~commissioner~~ secretary; (4) that it is the public policy of
 8 this state to enact legislation to carry out these purposes and comply with minimum standards for
 9 emergency medical service personnel as specified herein; (5) that any patient who receives
 10 emergency medical service and who is unable to consent thereto should be liable for the
 11 reasonable cost of such service; and (6) that it is the public policy of this state to encourage
 12 emergency medical service providers to do those things necessary to carry out the powers
 13 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:

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

8 ~~(b)~~ “Commissioner” means the Commissioner of the ~~Bureau for Public Health~~

9 ~~(c)~~ “Council” means the Emergency Medical Service Advisory Council created pursuant
 10 to this article;

11 ~~(d)~~ “Director” means the Director of the Office of Emergency Medical Service in the ~~Bureau~~
 12 ~~for Public Health~~ Department of Homeland Security, Division of Emergency Management.

13 ~~(e)~~ “Emergency Medical Services” means all services which are set forth in Public Law
14 93-154 “The Emergency Medical Services Systems Act of 1973” and those included in and made
15 a part of the emergency medical services plan of the Department of ~~Health and Human Resources~~
16 Homeland Security inclusive of, but not limited to, responding to the medical needs of an individual
17 to prevent the loss of life or aggravation of illness or injury;

18 ~~(f)~~ “Emergency medical service agency” means any agency licensed under section six-a
19 of this article to provide emergency medical services;

20 ~~(g)~~ “Emergency medical service personnel” means any person certified by the
21 ~~commissioner~~ secretary to provide emergency medical services as set forth by legislative rule;

22 ~~(h)~~ “Emergency medical service provider” means any authority, person, corporation,
23 partnership, or other entity, public or private, which owns or operates a licensed emergency
24 medical services agency providing emergency medical service in this state;

25 ~~(i)~~ “Governing body” has the meanings ascribed to it as applied to a municipality in §8-1-
26 2(b)(1) of this code;

27 ~~(j)~~ “Line officer” means the emergency medical service personnel, present at the scene of
28 an accident, injury, or illness, who has taken the responsibility for patient care;

29 ~~(k)~~ “Medical command” means the issuing of orders by a physician from a medical facility
30 to emergency medical service personnel for the purpose of providing appropriate patient care;

31 ~~(l)~~ “Municipality” has the meaning ascribed to it in §8-1-2(a)(1) of this code;

32 ~~(m)~~ “Patient” means any person who is a recipient of the services provided by emergency
33 medical services;

34 “Secretary” means the Secretary of the Department of Homeland Security;

35 ~~(n)~~ “Service reciprocity” means the provision of emergency medical services to citizens of
36 this state by emergency medical service personnel certified to render those services by a
37 neighboring state;

38 ~~(o)~~ “Small emergency medical service provider” means any emergency medical service

39 provider which is made up of less than 20 emergency medical service personnel; and

40 ~~(p)~~ “Specialized multipatient medical transport” means a type of ambulance transport
 41 provided for patients with medical needs greater than those of the average population, which may
 42 require the presence of a trained emergency medical technician during the transport of the patient:
 43 *Provided*, That the requirement of “greater medical need” may not prohibit the transportation of a
 44 patient whose need is preventive in nature.

**§16-4C-4. Office of Emergency Medical Services created; requiring appointment of a
 Director of the Office of Emergency Medical Services; staffing.**

1 (a) There is hereby created within state government ~~under the Commissioner of the~~
 2 ~~Bureau of Public Health~~ an office to be known as the Office of Emergency Medical Services. The
 3 office shall be housed within the Department of Homeland Security, Division of Emergency
 4 Management. A Director of the Office of Emergency Medical Services shall be appointed by the
 5 Secretary of the Department of ~~Health and Human Resources~~ Homeland Security to manage the
 6 office in a manner consistent with the purposes of this article.

7 (b) The director shall have experience in the delivery and administration of emergency
 8 medical services and related pre-hospital care. The director shall serve at the will and pleasure
 9 of the secretary and shall not be actively engaged or employed in any other business, vocation,
 10 or employment, serving full time as the Director of the Office of Emergency Medical Services.

11 ~~(b)~~ (c) The ~~commissioner~~ secretary may employ any technical, clerical, stenographic, and
 12 other personnel as may be necessary to carry out the purposes of this article. The personnel may
 13 be paid from funds appropriated therefor or from other funds as may be made available for
 14 carrying out the purposes of this article.

15 ~~(c)~~ ~~The Office of Emergency Medical Services, as created by former §16-4D-4 of this code,~~
 16 ~~shall continue in existence as the Office of Emergency Medical Services established by this~~
 17 ~~section~~

§16-4C-5. Emergency Medical Services Advisory Council; duties; composition;

appointment; meetings; compensation and expenses.

1 (a) The Emergency Medical Services Advisory Council, ~~created and established by former~~
2 ~~§16-4C-7 of this code~~, is continued for the purpose of developing, with the ~~commissioner~~
3 secretary, standards for emergency medical services personnel and for the purpose of providing
4 advice to the Office of Emergency Medical Services and the ~~commissioner~~ secretary with respect
5 to reviewing and making recommendations for, and providing assistance to, the establishment
6 and maintenance of adequate emergency medical services for all portions of this state.

7 (b) The council shall advise the ~~commissioner~~ secretary in all matters pertaining to his or
8 her duties and functions in relation to carrying out the purposes of this article.

9 (c) The council shall review any rule proposed by the ~~commissioner~~ secretary for
10 legislative approval as provided for in §16-4C-6(a) of this code. After reviewing the legislative rule,
11 the Emergency Medical Services Advisory Council shall provide a recommendation to the
12 Legislative Rule-Making Review Committee that the Legislature:

- 13 (1) Authorize the promulgation of the legislative rule;
- 14 (2) Authorize the promulgation of part of the legislative rule;
- 15 (3) Authorize the promulgation of the legislative rule with certain amendments;
- 16 (4) Recommend that the proposed rule be withdrawn; or
- 17 (5) Reject the proposed rule.

18 (d) The council shall be composed of 18 members appointed by the Governor by and with
19 the advice and consent of the Senate. The Mountain State Emergency Medical Services
20 Association shall submit to the Governor a list of six names of representatives from its association
21 and a list of three names shall be submitted to the Governor of representatives of their respective
22 organizations by the County Commissioners' Association of West Virginia, the West Virginia State
23 Firemen's Association, the West Virginia Hospital Association, the West Virginia Chapter of the
24 American College of Emergency Physicians, the West Virginia Emergency Medical Services
25 Administrators Association, the West Virginia Emergency Medical Services Coalition, the

26 Ambulance Association of West Virginia, and the State Department of Education. The Governor
27 shall appoint, from the respective lists submitted, two persons who represent the Mountain State
28 Emergency Medical Services Association, one of whom shall be a paramedic and one of whom
29 shall be an emergency medical technician-basic; and one person from the County
30 Commissioners' Association of West Virginia, the West Virginia State Firemen's Association, the
31 West Virginia Hospital Association, the West Virginia Chapter of the American College of
32 Emergency Physicians, the West Virginia Emergency Medical Services Administrators
33 Association, the West Virginia Emergency Medical Services Coalition, the Ambulance Association
34 of West Virginia, and the State Department of Education. In addition, the Governor shall appoint
35 the following:

36 (1) One person to represent emergency medical services providers operating within the
37 state;

38 (2) One person to represent small emergency medical services providers operating within
39 this state;

40 (3) One person to represent emergency medical services training officers or
41 representatives;

42 (4) Two people to represent emergency medical services supervisors or administrators;
43 and

44 (5) Three people to represent the general public who serve as voting members.

45 (e) Not more than six of the members may be appointed from any one congressional
46 district.

47 (f) Each term is to be for three years, and no member may serve more than four
48 consecutive terms.

49 (g) The council shall choose its own chairperson and meet at the call of the ~~commissioner~~
50 secretary at least twice a year.

51 (h) The members of the council shall receive compensation and expense reimbursement

52 in an amount not to exceed the same compensation and expense reimbursement as is paid to
53 members of the Legislature for their interim duties as recommended by the Citizens Legislative
54 Compensation Commission and authorized by law for each day, or substantial portion thereof,
55 engaged in the performance of official duties.

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

1 The ~~commissioner~~ secretary has the following powers and duties:

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

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

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

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

11 (C) Levels of certification and the scopes of practice for each level;

12 (D) Standards of conduct; and

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

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

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

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

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

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

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

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

27 (3) Standards and requirements for emergency medical services vehicles, including
28 classifications and specifications;

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

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

35 (6) Provision of services by emergency medical services personnel in hospital emergency
36 rooms;

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

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

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

47 (c) To design, develop, and review a Statewide Emergency Medical Services
48 Implementation Plan. The plan shall recommend aid and assistance and all other acts necessary
49 to carry out the purposes of this article:

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

52 (2) To develop a system for monitoring and evaluating emergency medical services
53 programs throughout the state;

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

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

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

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

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

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

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

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

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

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

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

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

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

91 (3) The office shall propose legislative rules for promulgation in accordance with §29A-3-
92 1 *et seq.* of this code to effectuate the provisions of this subsection; and

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

§16-4C-6a. Emergency medical services agency licensure.

1 (a) Any person who proposes to establish or maintain an emergency medical services
2 agency shall file an application with the ~~commissioner~~ secretary which includes the identity of the
3 applicant, any parent or affiliated entity, the proposed level of service and the number of

4 emergency medical service response vehicles of the agency or proposed agency. The
5 commissioner may require that additional information be included on each application.

6 (b) Upon receipt and review of the application the ~~commissioner~~ secretary shall issue a
7 license if he or she finds that the applicant meets the requirements and quality standards, to be
8 established by the ~~commissioner~~ secretary, for an emergency medical services agency license,
9 and if the applicant has certified under penalty of perjury that he or she is current with all lawful
10 obligations owed the State of West Virginia, excluding obligations owed in the current quarter,
11 including, but not limited to, payment of taxes and workers' compensation premiums: *Provided,*
12 That the certification set forth in this paragraph is required for the original application and
13 subsequent renewals.

**§16-4C-6b. Establishment of emergency medical services agency licensure fund;
authorized expenditures; annual report.**

1 (a) There is established in the state Treasury a special revenue fund designated the
2 "Emergency Medical Services Agency Licensure Fund", which shall be administered by the
3 ~~Commissioner of the Bureau of Public Health~~ Secretary of the Department of Homeland Security.

4 (b) All application, personnel certification and recertification and agency licensing fees
5 collected pursuant to the provisions of §16-4C-6, §16-4C-6a, and §16-4C-8 of this code shall be
6 deposited into the fund and expended in accordance with the agency licensure and personnel
7 certification and recertification duties imposed in this article.

8 (c) Any remaining balance, including accrued interest, in the fund at the end of the fiscal
9 year shall not revert to the General Revenue Fund, but shall remain in the account.

10 (d) On or before January 1 of each year, the ~~commissioner~~ secretary shall provide the
11 Legislature with an annual fiscal year report on the emergency medical services agency licensure
12 account including, but not limited to, the previous fiscal year's expenditures; projected
13 expenditures for the current and next fiscal years; the number of agency licenses and personnel
14 certifications and recertifications issued, denied, suspended or revoked; and, the status of

15 licensure and certification hearings and court actions.

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

1 (a) Every ambulance operated by an emergency medical services agency shall carry at
2 least two personnel. At least one person shall be certified in cardiopulmonary resuscitation or first
3 aid and the person in the patient compartment shall be certified as an emergency medical
4 technician-basic at a minimum except that in the case of a specialized multi-patient medical
5 transport, only one staff person is required, and that person shall be certified, at a minimum, at
6 the level of an emergency medical technician-basic. ~~The requirements of this subsection will~~
7 ~~remain in effect until revised by the legislative rule to be promulgated pursuant to §16-4C-8(b) of~~
8 ~~this code.~~

9 ~~(b) On or before May 28, 2010, the commissioner shall submit a proposed legislative rule~~
10 ~~to the Emergency Medical Services Advisory Council for review, and on or before June 30, 2010,~~
11 ~~shall file the proposed legislative rule with the Office of the Secretary of State, in accordance with~~
12 ~~the provisions of §29A-3-1 et seq. of this code, to establish certification standards for emergency~~
13 ~~medical vehicle operators and to revise the requirements for emergency medical services~~
14 ~~personnel.~~

15 ~~(c) As of the effective date of the legislative rule to be promulgated pursuant to §16-4C-~~
16 ~~8(b), emergency medical services personnel who operate ambulances shall meet the~~
17 ~~requirements set forth in the legislative rule.~~

18 ~~(d)~~ (b) Any person desiring emergency medical services personnel certification shall apply
19 to the ~~commissioner~~ secretary using forms and procedures prescribed by the ~~commissioner~~
20 secretary. Upon receipt of the application, the ~~commissioner~~ secretary shall determine whether
21 the applicant meets the certification requirements and may examine the applicant if necessary to
22 make that determination.

23 ~~(e)~~ (c) The applicant shall submit to a national criminal background check, the requirement
24 of which is declared to be not against public policy.

25 (1) The applicant shall meet all requirements necessary to accomplish the national
26 criminal background check, including submitting fingerprints, and authorizing the West Virginia
27 Office of Emergency Medical Services, the West Virginia State Police, and the Federal Bureau of
28 Investigation to use all records submitted and produced for the purpose of screening the applicant
29 for certification.

30 (2) The results of the national criminal background check may not be released to or by a
31 private entity.

32 (3) The applicant shall submit a fee of \$75 for initial certification and a fee of \$50 for
33 recertification. The fees set forth in this subsection remain in effect until modified by legislative
34 rule.

35 ~~(f)~~(d) An application for an original, renewal or temporary emergency medical service
36 personnel certificate or emergency medical services agency license, shall be acted upon by the
37 ~~commissioner~~ secretary and the certificate or license delivered or mailed, or a copy of any order
38 of the ~~commissioner~~ secretary denying any such application delivered or mailed to the applicant,
39 within 15 days after the date upon which the complete application, including test scores and
40 background checks, if applicable, was received by the ~~commissioner~~ secretary.

41 ~~(g)~~(e) Any person may report to the ~~commissioner~~ secretary or the Director of the Office
42 of Emergency Medical Services information he or she may have that appears to show that a
43 person certified by the ~~commissioner~~ secretary may have violated the provisions of this article or
44 legislative rules promulgated pursuant to this article. A person who is certified by the
45 ~~commissioner~~ secretary, who knows of or observes another person certified by the secretary
46 violating the provisions of this article or legislative rules promulgated pursuant to this article, has
47 a duty to report the violation to the ~~commissioner~~ secretary or director. Any person who reports
48 or provides information in good faith is immune from civil liability.

49 ~~(h)~~(f) The ~~commissioner~~ secretary may issue a temporary emergency medical services
50 personnel certificate to an applicant, with or without examination of the applicant, when he or she

51 finds that issuance to be in the public interest. Unless suspended or revoked, a temporary
52 certificate shall be valid initially for a period not exceeding 120 days and may not be renewed
53 unless the ~~commissioner~~ secretary finds the renewal to be in the public interest.

54 ~~(f)~~(g) For purposes of certification or recertification of emergency medical services
55 personnel, the ~~commissioner~~ secretary shall recognize and give full credit for all continuing
56 education credits that have been approved or recognized by any state or nationally recognized
57 accrediting body.

58 ~~(f)~~(h) Notwithstanding any other provision of code or rule, the ~~commissioner~~ secretary
59 recognizes that military personnel, National Guardsmen, members of the United States Coast
60 Guard, and members of the Reserve Components of the Armed Services have advanced skills
61 and training necessary to meet the requirements of this section to be certified as an emergency
62 medical technician-paramedic upon application. Any person may seek automatic certification as
63 an emergency medical technician-paramedic in this state if he or she has:

64 (1) Been honorably discharged from any branch of the United States military;

65 (2) Received paramedic or similar life-saving medical training in positions including, but
66 not limited to, United States Army Combat Medic, United States Air Force Pararescue, United
67 States Air Force Combat Rescue Officer, United States Navy Hospital Corpsman – Advanced
68 Technical Field, United States Coast Guard Health Services Technician, National Guard Health
69 Care Specialist, the Reserve Components of any of the preceding positions, or can otherwise
70 demonstrate that his or her occupation in the military received substantially similar training to be
71 certified as required by the ~~commissioner~~ secretary; and

72 (3) Received an honorable discharge within two years of the application date.

73 ~~(k)~~(i) Notwithstanding any other provision of code or rule, the ~~commissioner~~ secretary
74 recognizes that military personnel, National Guardsmen, members of the United States Coast
75 Guard, and members of the Reserve Components of the Armed Services have advanced skills
76 and training necessary to meet the requirements of this section to be certified as an emergency

77 medical technician-basic upon application. Any person may seek automatic certification as an
78 emergency medical technician-basic in this state if he or she has:

79 (1) Been honorably discharged from any branch in the United States military;

80 (2) Received emergency medical technician training or similar life-saving medical training
81 in positions including, but not limited to, United States Army Infantryman, United States Air Force
82 Security Forces, United States Navy Hospital Corpsman, United States Coast Guard Aviation
83 Survival Technician, United States Marines Infantryman, National Guard Infantryman, and
84 Reserve Components of any of the preceding positions, or can otherwise demonstrate that his or
85 her occupation in the military received substantially similar training to be certified as required by
86 the ~~commissioner~~ secretary; and

87 (3) Received an honorable discharge within two years of the application date.

88 ~~(j)(m)(i)~~ Upon reviewing an application for certification pursuant to subsection ~~(j)(h)~~ and
89 subsection ~~(k)(i)~~ of this section, the ~~commissioner~~ secretary shall issue an appropriate certificate
90 to the individual applying for certification as an emergency medical technician-paramedic or
91 emergency medical technician-basic without further examination or education. If an individual
92 certified pursuant to this section permits his or her certification to expire, the ~~commissioner~~
93 secretary may require examination as a condition of recertification.

**§16-4C-8a. Courtesy certification of emergency medical services personnel in surrounding
states.**

1 (a) It is the intention of the Legislature to permit individuals who have been certified as
2 emergency medical services personnel in a state bordering West Virginia to serve as emergency
3 medical services personnel in West Virginia.

4 (b) ~~Beginning July 1, 2018, the Commissioner of the Bureau for Public Health~~ Effective
5 July 1, 2022, the Director of the Division of Emergency Management within the Department of
6 Homeland Security shall establish a process by which a courtesy certification to serve as an

7 emergency medical responder or emergency medical technician in this state may be issued to
8 any person who satisfies the following requirements:

9 (1) Is certified as an emergency medical responder or emergency medical technician, or
10 a similar certification, in good standing in a state bordering West Virginia;

11 (2) Complies with the application process and procedures established by the
12 ~~Commissioner of the Bureau for Public Health~~ secretary; and

13 (3) Submits any required fee.

14 (4) Until such time as the Director of the Division of Emergency Management within the
15 Department of Homeland Security adopts a new process of courtesy certification, the process in
16 place as of July 1, 2022, shall remain in effect.

17 (c) Issuance of a courtesy certification shall not be withheld by the ~~Commissioner of the~~
18 ~~Bureau for Public Health~~ secretary based on an individual's failure to satisfy the minimum eligibility
19 requirements for emergency medical services personnel set forth in legislative rules promulgated
20 pursuant to §16-4C-6 of this code.

21 (d) The ~~Commissioner of the Bureau for Public Health~~ secretary shall propose rules for
22 legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to
23 implement the provisions of this section.

24 (e) Any courtesy certification issued pursuant to this section may be revoked at any time
25 if the individual's certification in the bordering state is restricted, revoked, or otherwise expires.

26 (f) Any courtesy certification issued pursuant to this section must be renewed biennially.

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

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

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

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

11 (d) Upon a finding that probable cause exists that the licensee or certificate holder has
12 violated any provision of this article or rules promulgated pursuant to this article, the ~~commissioner~~
13 secretary or director shall provide a copy of the complaint and notice of hearing to the licensee or
14 certificate holder. Upon a finding of probable cause that the conduct or continued service or
15 practice of any individual certificate holder may create a danger to public health or safety, the
16 ~~commissioner~~ secretary may temporarily suspend the certification prior to a hearing or notice:
17 ~~Provided, That the commissioner may rely on information received from a physician that serves~~
18 ~~as a medical director in finding that probable cause exists to temporarily suspend the certification:~~
19 ~~Provided, however, That~~ That the ~~commissioner~~ secretary shall simultaneously institute
20 proceedings for a hearing in accordance with section 10 of this article.

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

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

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

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

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

32 (2) Been grossly incompetent, and/or grossly negligent as defined by the ~~commissioner~~

33 secretary in accordance with rules or by prevailing standards of emergency medical services care;

34 or

35 (3) Failed or refused to comply with the provisions of this article or any legislative rule

36 promulgated by the ~~commissioner~~ secretary or any order or final decision of the ~~commissioner~~

37 secretary; or

38 (4) Engaged in any act during the course of duty which has endangered or is likely to

39 endanger the health, welfare or safety of the public.

40 (i) The ~~commissioner~~ secretary or the director may, after notice and opportunity for

41 hearing, deny or refuse to renew, suspend, or revoke the license or certification of, impose

42 probationary conditions upon or take disciplinary action against, any licensee or certificate holder

43 for any violation of this article or any rule promulgated pursuant to this article, once a violation has

44 been proven by a preponderance of the evidence.

45 (j) Disciplinary action may include:

46 (1) Reprimand;

47 (2) Probation;

48 (3) Administrative penalties and fines;

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

50 (5) Practicing under supervision or other restriction;

51 (6) Requiring the licensee or holder of a certificate to report to the ~~commissioner~~ secretary

52 or director for periodic interviews for a specified period of time;

53 (7) Other disciplinary action considered by the ~~commissioner~~ secretary or director to be

54 necessary to protect the public, including advising other parties whose legitimate interests may

55 be at risk; or

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

57 (k) The ~~commissioner~~ secretary shall suspend or revoke any certificate, temporary
58 certificate or license if he or she finds the existence of any grounds which would justify the denial
59 of an application for the certificate, temporary certificate or license if application were then being
60 made for it.

§16-4C-10. Procedures for hearing; right of appeal; judicial review.

1 (a) Hearings are governed by the provisions of §29A-5-1 *et seq.* of this code.

2 (b) The ~~commissioner~~ secretary or director may conduct the hearing or elect to have an
3 Administrative Law Judge conduct the hearing.

4 (c) If the hearing is conducted by an Administrative Law Judge, the Administrative Law
5 Judge shall prepare a proposed written order at the conclusion of a hearing containing findings of
6 fact and conclusions of law. The proposed order may contain proposed disciplinary actions if the
7 ~~commissioner~~ secretary or director so directs. The ~~commissioner~~ secretary may accept, reject or
8 modify the decision of the Administrative Law Judge.

9 (d) The ~~commissioner~~ secretary or director has the authority to administer oaths, examine
10 any person under oath and issue subpoenas and subpoenas duces tecum.

11 (e) If, after a hearing, the ~~commissioner~~ secretary or director determines the licensee or
12 holder of a certificate has violated any provision of this article or the legislative rules promulgated
13 pursuant to this article, a formal written decision shall be prepared which contains findings of fact,
14 conclusions of law and a specific description of the disciplinary actions imposed.

15 (f) The order of the ~~Commissioner~~ secretary or director is final unless vacated or modified
16 upon judicial review.

17 (g) Any licensee or certificate holder adversely affected by a final order made and entered
18 by the ~~commissioner~~ secretary or director is entitled to judicial review. All of the pertinent
19 provisions of §29A-5-4 of this code apply to and govern the review with like effect as if the
20 provisions of the section were set forth herein.

21 (h) The judgment of the circuit court is final unless reversed, vacated, or modified on

22 appeal to the Supreme Court of Appeals in accordance with the provisions of §29A-6-1 of this
23 code.

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

1 (a) When, as a result of an investigation under this article or otherwise, the ~~commissioner~~
2 secretary or director has reason to believe that a licensee or certificate holder has committed a
3 criminal offense, the ~~commissioner~~ secretary or director may bring the information to the attention
4 of an appropriate law-enforcement official.

5 (b) Any person who violates any law or rule or operates an ambulance with an insufficient
6 number of emergency medical service personnel aboard when not lawfully permitted to do so, or
7 who represents himself or herself as a certified emergency medical service personnel knowing
8 the representation to be untrue, is guilty of a misdemeanor and, upon conviction thereof, shall be
9 fined not less than \$100 nor more than \$1,000: *Provided*, That after July 1, 2010, the fine shall
10 not be more than \$5,000.

§16-4C-13. Actions to enjoin violations; injunctive relief.

1 (a) Whenever it appears to the ~~commissioner~~ secretary that any person has been or is
2 violating or is about to violate any provision of this article or any final order of the ~~commissioner~~
3 secretary, the ~~commissioner~~ secretary may apply in the name of the state, to the circuit court of
4 the county in which the violation or any part thereof has occurred, is occurring or is about to occur,
5 for an injunction against the person and any other persons who have been, are or are about to
6 be, involved in, or in any way participating in, any practices, acts or omissions, so in violation,
7 enjoining the person or persons from any such violation. The application may be made and
8 prosecuted to conclusion whether or not any such violation has resulted or shall result in
9 prosecution or conviction under ~~the provisions of~~ §16-4C-12 of this code.

10 (b) Upon application by the ~~commissioner~~ secretary, the circuit courts of this state may by
11 mandatory or prohibitory injunction compel compliance with the provisions of this article and all
12 final orders of the ~~commissioner~~ secretary.

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

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

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

1 (a) Notwithstanding any other provision of law, emergency medical service personnel may
2 provide the services as determined by the ~~commissioner~~ secretary by legislative rule pursuant to
3 the provisions of §29A-3-1 *et seq.* of this code.

4 (b) Legislative rules governing provision of these services in a hospital emergency room
5 setting shall be developed by the ~~commissioner~~ secretary and shall include provisions allowing
6 paramedics to function under the direct supervision of a registered professional nurse in a hospital
7 emergency room setting. Provision of these services in an emergency room hospital setting shall
8 not be initiated until a legislative rule establishing training requirements, standards and
9 requirements for these functions is in effect. ~~The Legislature therefore directs the commissioner~~
10 ~~to propose this legislative rule on or before July 1, 2006. Further, the~~ The ~~Commissioner~~ secretary
11 may promulgate this rule as an emergency rule pursuant to the provisions of §29A-3-15 of this
12 code. Any rule so promulgated shall provide that paramedics are under the jurisdiction of the
13 ~~commissioner~~ secretary.

14 (c) The West Virginia Board of Registered Professional Nurses may propose legislative
15 rules, pursuant to §29A-3-1 *et seq.* of the code relating to the scope of practice for nurses as
16 those practices relates to overseeing these paramedics. The provisions of this section and any
17 rules promulgated thereunder may not be construed to alter in any manner the duties, role, or
18 responsibilities of attending physicians regarding the providing and oversight of patient care.

§16-4C-15. Powers of emergency medical service attendants, emergency medical

technicians-basic and emergency medical technicians-paramedic during emergency communications failures and disasters.

1 (a) In the event of a communications failure between the certified emergency medical
2 services agency personnel, as defined in §16-4C-3 of this code, and the physician during an
3 emergency situation, the certified personnel is authorized to deliver the services as authorized in
4 §16-4C-14 of this code.

5 (b) In the event of a disaster or other occurrence which renders the communication system
6 ineffective for purposes of adequate individual direction between the physician and the certified
7 emergency medical services agency personnel, the personnel may perform the services as
8 authorized pursuant to ~~the provisions of~~ §16-4C-14 of this code and may release immediate
9 control of the patient to any other emergency medical service personnel in order to provide
10 immediate services to other patients affected by the disaster or other occurrence.

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

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

1 (a) Every person, corporation, ambulance service, emergency medical service provider,
2 emergency ambulance authority, emergency ambulance service or other person which employs
3 emergency medical service personnel with or without wages for ambulance service or provides
4 ambulance service in any manner, shall obtain a policy of insurance insuring the person or entity
5 and every employee, agent or servant, against loss from the liability imposed by law for damages
6 arising from any error or omission in the provision of emergency medical services as enumerated
7 by this article, in an amount no less than \$1 million per incident.

8 (b) No emergency medical service personnel or emergency medical service provider is

9 liable for civil damages or injuries in excess of the amounts for which the person or entity is
10 actually insured unless the damages or injuries are intentionally or maliciously inflicted.

11 (c) Every person or entity required by this section to obtain a policy of insurance shall
12 furnish proof of the existence of the policy to the ~~commissioner~~ secretary on or before January 1
13 of each calendar year.

14 (d) Any person or entity who fails to secure a policy of insurance before providing
15 emergency medical services is not entitled to the limited liability created by subsection (b) of this
16 section: *Provided*, That any physician, who gives instructions to emergency medical service
17 personnel without being compensated, or who treats any patient transported in an ambulance or
18 treats any patient prior to the transport, without being compensated, is entitled to the limited
19 liability provided in subsection (b) of this section.

§16-4C-17. Limitation of liability for failure to obtain consent.

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

7 (b) Nothing in this article may be construed to require medical treatment or transportation
8 for any adult in contravention of his or her stated objection thereto upon religious grounds or
9 pursuant to any living will or do not resuscitate orders: *Provided*, That the emergency medical
10 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.**

1 (a) When any department, agency or entity which provides emergency medical services
2 under the authority of this article is responding to, operating at or returning from an emergency

3 medical service, any emergency medical service personnel serving in the capacity of an
4 emergency medical service line officer in charge, shall control and direct the providing of
5 emergency medical services. The emergency medical service personnel serving in the capacity
6 of an emergency medical service line officer shall determine whether a patient shall be
7 transported from the emergency scene, determine what care shall be rendered prior to the
8 transport, determine the appropriate facility to which the patient shall be transported, and
9 otherwise fully direct and control the providing of emergency medical services and patient care
10 under the direction of medical command.

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

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

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

11 (b) No person or entity may enter into any such agreement unless the agreement provides
12 that each of the parties to the agreement shall waive any and all claims against the other parties
13 thereto, which may arise out of their activities outside of their respective jurisdictions under the

14 agreement and shall indemnify and save harmless the other parties to the agreement from all
 15 claims by third parties for property damages or personal injuries which may arise out of the
 16 activities of the other parties to the agreement outside their respective jurisdictions under the
 17 agreement.

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

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

1 (a) The ~~commissioner~~ secretary shall propose for promulgation, legislative rules pursuant
 2 to §29A-3-1 *et seq.* of this code to carry out the purposes of this article.

3 (b) Notwithstanding the provisions of §16-4C-6(a) of this code, the ~~commissioner~~ secretary
 4 shall propose for promulgation a legislative rule regulating fire department rapid response

5 services, pursuant to §29A-3-1 *et seq.* of this code which: (1) Establishes licensure and
6 certification requirements for fire department rapid response services who charge for their
7 services or transport patients; (2) incorporates necessary applicable emergency medical services
8 requirements for licensure for “emergency medical services” as the requirements apply to fire
9 departments and as defined in §16-4C-3(e) of this code; and (3) creates an exemption from
10 licensure for certain fire departments who do not charge for their services or patient transport, but
11 who provide rapid response services pursuant to an agreement with a licensed emergency
12 medical services agency that addresses medical direction, training, quality assurance, and liability
13 insurance.

**§16-4C-24. Emergency Medical Services Equipment and Training Fund; establishment of
grant program for equipment and training of emergency medical service providers
and personnel.**

1 (a) There is hereby created in the State Treasury a special revenue fund to be known as
2 the Emergency Medical Services Equipment and Training Fund. Expenditures from the fund by
3 the Office of Emergency Medical Services, ~~Bureau for Public Health, Department of Health and~~
4 ~~Human Resources~~ Department of Homeland Security are authorized from collections. The fund
5 may only be used for the purpose of providing grants to equip emergency medical services
6 providers and train emergency medical services personnel, as defined in §16-4C-3 of this code.
7 Any balance remaining in the fund at the end of any fiscal year does not revert to the General
8 Revenue Fund but remains in the special revenue fund.

9 (b) The ~~Commissioner of the Bureau for Public Health~~ Secretary of the Department of
10 Homeland Security shall establish a grant program for equipment and training of emergency
11 medical services providers and personnel. Such grant program shall be open to all emergency
12 medical services personnel and providers, but priority shall be given to rural and volunteer
13 emergency medical services providers.

14 (c) ~~The Commissioner of the Bureau for Public Health~~ secretary shall propose legislative
15 rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to implement the grant
16 program established pursuant to this section.

§16-4C-25. Office of Emergency Medical Services transfer to Department of Homeland Security.

1 (a) Effective July 1, 2022, the Office of Emergency Medical Services, previously part of
2 the Department of Health and Human Resources, is transferred to the Division of Emergency
3 Management within the Department of Homeland Security, including all the allied, advisory,
4 affiliated or related entities, boards, commissions or funds associated with the division. All real
5 and personal property of the Office of Emergency Medical Services or held by the Department of
6 Health and Human Resources on behalf of the Office of Emergency Medical Services, is hereby
7 transferred to the Division of Emergency Management within the Department of Homeland
8 Security. All general revenue appropriated to the Office of Emergency Medical Services is hereby
9 transferred to the Division of Emergency Management within the Department of Homeland
10 Security.

11 (b) All records, assets, and contracts, along with rights and obligations thereunder,
12 obtained or signed on behalf of the Office of Emergency Medical Services are transferred and
13 assigned to the Division of Emergency Management within the Department of Homeland Security.

14 (c) Employees of the Office of Emergency Medical Services are transferred to the Division
15 of Emergency Management within the Department of Homeland Security at their existing salary
16 with all accrued benefits. All employees of the office are will and pleasure employees of the
17 Secretary of Homeland Security in accordance with §29-6-4 of this code and are exempt from
18 coverage by the classified service.

19 (d) The legislative rules of the Office of Emergency Medical Services that were previously
20 authorized remain in effect as if they were proposed by the Office of Emergency Medical Services
21 or the Bureau for Public Health related and relevant to the Office of Emergency Medical Services

22 under the Division of Emergency Management within the Department of Homeland Security,
23 unless and until amended, superseded or repealed.

24 (e) The Office of Emergency Medical Services authorities, powers, and duties remain
25 unchanged by this transfer or this section.

26 (f) The rights and authority over the funds administered by the Office of Emergency
27 Medical Services, the Commissioner of the Bureau for Public Health on behalf of the Office of
28 Emergency Medical Services or the Secretary of the Department of Health and Human Resources
29 on behalf of the Office of Emergency Medical Services are transferred to the Division of
30 Emergency Management within the Department of Homeland Security, including, but not limited
31 to, the Emergency Medical Services Agency Licensure Fund established in §16-4C-6b of this
32 code and the Emergency Medical Services Equipment and Training Fund established in §16-4C-
33 24 of this code.

34 (g) The Secretary of the Department of Homeland Security and the Director of the Division
35 of Emergency Management in cooperation with the Director of the of the Office of Emergency
36 Medical Services, shall work with the Commissioner of the Bureau for Public Health and the
37 Secretary of the Department of Health and Human Resources to provide for the orderly transition
38 of the Office of Emergency Medical Services from the Department of Health and Human
39 Resources to the Division of Emergency Management within the Department of Homeland
40 Security.

NOTE: The purpose of this bill is to transfer the Office of Emergency Medical Services from the Department of Health and Human Resources to the Department of Homeland Security.

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