

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

Senate Bill 445

BY SENATORS DEEDS, GRADY, RUCKER, SMITH, STOVER,

STUART, WOELFEL, AND ROBERTS

[Originating in the Committee on Government

Organization; reported January 24, 2024]

1 A BILL to amend and reenact §16-4C-8 and §16-4C-9 of the Code of West Virginia, 1931, as
2 amended, all relating to certification of emergency medical services personnel;
3 establishing dates for mandatory rule-making; setting period of validity of certification for
4 emergency medical services personnel at two years; and requiring Office of Emergency
5 Medical Services to publish certain disciplinary actions taken against certified emergency
6 medical services personnel on its website.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

§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 the
6 level of an emergency medical technician-basic. The requirements of this subsection will remain
7 in effect until revised by the legislative rule to be promulgated pursuant to §16-4C-8(b) of this
8 code.

9 (b) On or before May 28, ~~2010~~ 2024, the commissioner shall submit a proposed legislative
10 rule to the Emergency Medical Services Advisory Council for review, and on or before June 30,
11 ~~2010~~ 2024, shall file the proposed legislative rule with the Office of the Secretary of State, in
12 accordance with the provisions of §29A-3-1 *et seq.* of this code, to establish certification standards
13 for emergency medical vehicle operators and to revise the requirements for emergency medical
14 services 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) Any person desiring emergency medical services personnel certification shall apply to
19 the commissioner using forms and procedures prescribed by the commissioner. Upon receipt of
20 the application, the commissioner shall determine whether the applicant meets the certification
21 requirements and may examine the applicant if necessary to make that determination.

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

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

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

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

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

40 (g) Certification as an Emergency Medical Dispatcher, Emergency Medical Vehicle
41 Operator, Emergency Medical Responder, Emergency Medical Technician, Advanced
42 Emergency Medical Technician, Paramedic, Mobile Critical Care Paramedic, or Mobile Critical

43 Care Nurse is valid for a period of two years with expiration dates determined by the
44 commissioner.

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

53 ~~(h)~~(i) The commissioner may issue a temporary emergency medical services personnel
54 certificate to an applicant, with or without examination of the applicant, when he or she finds that
55 issuance to be in the public interest. Unless suspended or revoked, a temporary certificate shall
56 be valid initially for a period not exceeding 120 days and may not be renewed unless the
57 commissioner finds the renewal to be in the public interest.

58 ~~(i)~~(j) For purposes of certification or recertification of emergency medical services
59 personnel, the commissioner shall recognize and give full credit for all continuing education
60 credits that have been approved or recognized by any state or nationally recognized accrediting
61 body.

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

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

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

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

77 ~~(k)(l)~~ Notwithstanding any other provision of code or rule, the commissioner recognizes
78 that military personnel, National Guardsmen, members of the United States Coast Guard, and
79 members of the Reserve Components of the ~~Armed Services~~ armed services have advanced
80 skills and training necessary to meet the requirements of this section to be certified as an
81 emergency medical technician-basic upon application. Any person may seek automatic
82 certification as an emergency medical technician-basic in this state if he or she has:

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

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

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

92 ~~(j)(k)~~ (m) Upon reviewing an application for certification pursuant to subsection ~~(j)(k)~~ and
93 subsection ~~(k)(l)~~ of this section, the commissioner shall issue an appropriate certificate to the
94 individual applying for certification as an emergency medical technician-paramedic or emergency

95 medical technician-basic without further examination or education. If an individual certified
96 pursuant to this section permits his or her certification to expire, the commissioner may require
97 examination as a condition of recertification.

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

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

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

8 (c) After reviewing any information obtained through an investigation, the commissioner
9 or director shall determine if probable cause exists that the licensee or certificate holder has
10 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 or director shall provide a copy of the complaint and notice of hearing to the licensee or certificate
14 holder. Upon a finding of probable cause that the conduct or continued service or practice of any
15 individual certificate holder may create a danger to public health or safety, the commissioner may
16 temporarily suspend the certification prior to a hearing or notice: *Provided*, That the commissioner
17 may rely on information received from a physician ~~that~~ who serves as a medical director in finding
18 that probable cause exists to temporarily suspend the certification: *Provided, however*, That the
19 commissioner shall simultaneously institute proceedings for a hearing in accordance with §16-
20 4C-10 of this code.

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

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

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

29 (h) The commissioner shall suspend or revoke any certificate, temporary certificate, or
30 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~~ or grossly negligent as defined by the commissioner
33 in accordance with rules or by prevailing standards of emergency medical services care; or

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

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

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

43 (j) Disciplinary action may include:

44 (1) Reprimand;

45 (2) Probation;

46 (3) Administrative penalties and fines;

- 47 (4) Mandatory attendance at continuing education seminars or other training;
- 48 (5) Practicing under supervision or other restriction;
- 49 (6) Requiring the licensee or holder of a certificate to report to the commissioner or director
50 for periodic interviews for a specified period of time;
- 51 (7) Other disciplinary action considered by the commissioner or director to be necessary
52 to protect the public, including advising other parties whose legitimate interests may be at risk; or
- 53 (8) Other sanctions as set forth by legislative rule promulgated pursuant to this article.
- 54 (k) The commissioner shall suspend or revoke any certificate, temporary certificate, or
55 license if he or she finds the existence of any grounds which would justify the denial of an
56 application for the certificate, temporary certificate, or license if application were then being made
57 for it.
- 58 (l) The Office of Emergency Medical Services shall, after notice and opportunity for
59 hearing, make available to the public electronically, information regarding any suspension or
60 revocation of the certification of EMS personnel for any violation of this article or any rule
61 promulgated pursuant to this article. The information published shall be limited to the individual's
62 name, certification number, whether the certification was revoked or suspended, and the date of
63 action. This section does not require the Office of Emergency Medical Services to publish any
64 information otherwise protected under this code.