

# **WEST VIRGINIA LEGISLATURE**

**SECOND REGULAR SESSION, 2012**



# **ENROLLED**

**COMMITTEE SUBSTITUTE**

**FOR**

**House Bill No. 4028**

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



Passed March 10, 2012

To Take Effect Ninety Days From Passage

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## H. B. 4028

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(BY DELEGATES STAGGERS, BUTCHER,  
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[Passed March 10, 2012; to take effect ninety days from passage.]

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

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

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

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

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

1 The commissioner has the following powers and duties:

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

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

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

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

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

17 (D) Standards of conduct; and

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

20 (2) Standards and requirements for licensure and  
21 licensure renewals of emergency medical service agencies,  
22 including:

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

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

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

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

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

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

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

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

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

48 (6) Provision of services by emergency medical services  
49 personnel in hospital emergency rooms;

50 (7) Authorization to temporarily suspend the certification  
51 of an individual emergency medical service provider prior to  
52 a hearing or notice if the commissioner finds there is probable  
53 cause that the conduct or continued service or practice of any  
54 individual certificate holder has or may create a danger to  
55 public health or safety: *Provided*, That the commissioner may  
56 rely on information received from a physician that serves as  
57 a medical director in finding that probable cause exists to  
58 temporarily suspend the certification; and

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

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

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

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

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

74 (d) To provide professional and technical assistance and  
75 to make information available to regional emergency medical  
76 services boards of directors and other potential applicants or  
77 program sponsors of emergency medical services for  
78 purposes of developing and maintaining a statewide system  
79 of services.

80 (e) To assist local government agencies, regional  
81 emergency medical services boards of directors and other  
82 public or private entities in obtaining federal, state or other  
83 available funds and services.

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

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

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

96 (i) To expend and distribute by grant or bailment funds  
97 and property to all state and local agencies for the purpose of  
98 performing the duties and responsibilities of the agency all  
99 funds which it may have so acquired or which may have been  
100 appropriated by the Legislature of this state.

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

103 (k) To review and disseminate information regarding  
104 federal grant assistance relating to emergency medical  
105 services.

106 (l) To prepare and submit to the Governor and Legislature  
107 recommendations for legislation in the area of emergency  
108 medical services.

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

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

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

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

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

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

16 (d) Upon a finding that probable cause exists that the  
17 licensee or certificate holder has violated any provision of

18 this article or rules promulgated pursuant to this article, the  
19 commissioner or director shall provide a copy of the  
20 complaint and notice of hearing to the licensee or certificate  
21 holder. Upon a finding of probable cause that the conduct or  
22 continued service or practice of any individual certificate  
23 holder may create a danger to public health or safety, the  
24 commissioner may temporarily suspend the certification prior  
25 to a hearing or notice: *Provided*, That the commissioner may  
26 rely on information received from a physician that serves as  
27 a medical director in finding that probable cause exists to  
28 temporarily suspend the certification: *Provided, however*,  
29 That the commissioner shall simultaneously institute  
30 proceedings for a hearing in accordance with section ten of  
31 this article.

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

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

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

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

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

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

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

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

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

65 (j) Disciplinary action may include:

66 (1) Reprimand;

67 (2) Probation;

68 (3) Administrative penalties and fines;

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

71 (5) Practicing under supervision or other restriction;

72 (6) Requiring the licensee or holder of a certificate to  
73 report to the commissioner or director for periodic interviews  
74 for a specified period of time;

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

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

81 (k) The commissioner shall suspend or revoke any  
82 certificate, temporary certificate or license if he or she finds  
83 the existence of any grounds which would justify the denial  
84 of an application for the certificate, temporary certificate or  
85 license if application were then being made for it.



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

To take effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

The within \_\_\_\_\_ this the \_\_\_\_\_  
day of \_\_\_\_\_, 2012.

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*Governor*