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2012 MAR 30 PM 4: 11

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2012



ENROLLED

COMMITTEE SUBSTITUTE

FOR

House Bill No. 4028

(By Delegates Stagers, Butcher,
Mahan, Moyer and Perry)



Passed March 10, 2012

To Take Effect Ninety Days From Passage

HB 4028

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H. B. 4028

(BY DELEGATES STAGGERS, BUTCHER,
MAHAN, MOYE AND PERRY)

[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;

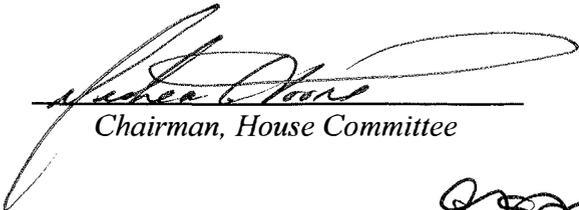
72 (6) Requiring the licensee or holder of a certificate to
73 report to the commissioner or director for periodic interviews
74 for a specified period of time;

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.



Chairman, House Committee



Chairman, Senate Committee

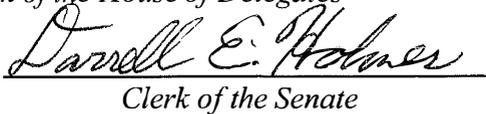
Originating in the House.

To take effect ninety days from passage.

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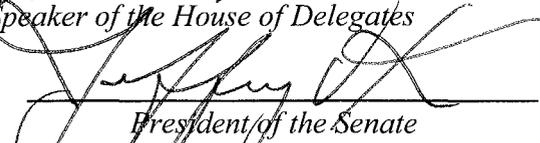
Clerk of the House of Delegates



Clerk of the Senate



Speaker of the House of Delegates



President of the Senate

The within is approved this the 30th
day of March, 2012.



Governor

PRESENTED TO THE GOVERNOR

MAR 19 2012

Time 11:10 am