

1 **H. B. 4451**

2
3 (By Delegates Lawrence, Staggers, Campbell,
4 Morgan and Fleischauer)

5 [Introduced February 10, 2014; referred to the
6 Committee on Government Organization then Finance.]

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10 A BILL to amend and reenact §16-4C-3, §16-4C-4, §16-4C-5 and
11 §16-4C-6 of the Code of West Virginia, 1931, as amended; and
12 to amend said article by adding thereto three new sections,
13 designated §16-4C-4a, §16-4C-4b and §16-4C-5a, all relating to
14 emergency medical services; continuing the Office of Emergency
15 Medical Services as an independent office within the
16 Department of Military Affairs and Public Safety; updating
17 definitions; creating the positions of Executive Director,
18 Medical Director and Administrative Director for the Office;
19 establishing and clarifying the powers and duties of the
20 directors; reconstituting the Emergency Medical Service
21 Advisory Council with nine members; and requirements for the
22 state medical protocols.

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

24 That §16-4C-3, §16-4C-4, §16-4C-5 and §16-4C-6 of the Code of

1 West Virginia, 1931, as amended, be amended and reenacted; and that
2 said article be amended by adding thereto three new sections,
3 designated §16-4C-4a, §16-4C-4b and §16-4C-5a, all to read as
4 follows:

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

6 **§16-4C-3. Definitions.**

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

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

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

20 ~~(b) "Commissioner" means the Commissioner of the Bureau for~~
21 ~~Public Health;~~

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

24 (d) "Director" means the Executive Director of the Office of

1 Emergency Medical Service ~~in the Bureau for Public Health.~~

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

9 (f) "Emergency medical service agency" means any agency
10 licensed under ~~section six-a~~ of this article ~~to provide that~~
11 provides emergency medical services;

12 (g) "Emergency medical service personnel" means any person
13 certified ~~by the commissioner to provide~~ under this article that
14 provides emergency medical services; ~~as set forth by legislative~~
15 ~~rule;~~

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

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

24 (j) "Line officer" means the emergency medical service

1 personnel, present at the scene of an accident, injury or illness,
2 who has taken the responsibility for patient care;

3 (k) "Medical command" means the issuing of orders by a
4 licensed physician from a medical facility to emergency medical
5 service personnel for the purpose of providing appropriate patient
6 care;

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

13 (m) "Office" means the Office of Emergency Medical Services
14 within the Division of Homeland Security and Emergency Management;

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

17 (o) "Secretary" means the Secretary of the Department of
18 Military Affairs and Public Safety;

19 ~~(p)~~ (p) "Service reciprocity" means the provision of emergency
20 medical services to citizens of this state by emergency medical
21 service personnel certified to render those services by a
22 neighboring state;

23 ~~(q)~~ (q) "Small emergency medical service provider" means any
24 emergency medical service provider which is made up of less than

1 twenty emergency medical service personnel; and

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

9 **§16-4C-4. Office of emergency medical services created; staffing.**

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

13 (a) The Office of Emergency Medical Services is continued and
14 commencing July 1, 2014, is an independent office within the
15 Department of Military Affairs and Public Safety.

16 (b) On or before July 1, 2014, the Secretary of the Department
17 of Military Affairs and Public Safety shall appoint an executive
18 director for the Office of Emergency Medical Services. The
19 executive director must be a graduate of an accredited college or
20 university with at least five years of administrative experience in
21 a medical field.

22 (c) On or before September 1, 2014, the executive director
23 shall appoint the following:

24 (1) A medical director who must be a physician licensed to

1 practice in West Virginia for at least five years and who has at
2 least five years of experience working with or in the field of
3 emergency medical services; and

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

7 (d) The ~~commissioner~~ executive director may employ any
8 technical, clerical, stenographic and other personnel as may be
9 necessary to carry out the purposes of this article. The personnel
10 may be paid from funds appropriated therefor or from other funds as
11 may be made available for carrying out the purposes of this
12 article.

13 ~~The office of emergency medical services as created by former~~
14 ~~section four, article four-d of this chapter, shall continue in~~
15 ~~existence as the office of emergency medical services established~~
16 ~~by this section.~~

17 **§16-4C-4a. Powers and duties of the Medical Director.**

18 (a) The executive director appoints the medical director. The
19 medical director is a part-time position as set by the executive
20 director.

21 (b) The medical director may establish and update state
22 medical protocols for emergency medical service agencies and
23 personnel. The medical director shall formulate the state medical
24 protocols with the advice of the Emergency Medical Service Advisory

1 Council.

2 (c) Prior to January 1, 2015, the medical director, with the
3 advice of the council, shall establish the basic state medical
4 protocols that are in concert with the national medical standards.
5 These basic state medical protocols become effective on January 1,
6 2015.

7 (d) At least every five years after January 1, 2015, or within
8 six months of a change to medical standards at the national level,
9 the medical director, with the advice of the council, shall update
10 the state medical protocols to adhere to the national medical
11 standards for prehospital care.

12 **§16-4C-4b. Powers and duties of the Administrative Director.**

13 (a) The executive director appoints the administrative
14 director. This is a full-time position with the salary set by the
15 executive director.

16 (b) The administrative director shall:

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

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

22 (3) Investigate emergency medical service agencies and
23 personnel;

24 (4) Be the staff for the Emergency Medical Services Advisory

1 Council, including setting meeting dates, providing notice and
 2 setting the agenda;

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

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

6 **§16-4C-5. Emergency Medical Services Advisory Council; duties;**
 7 **composition; appointment; meetings; compensation and**
 8 **expenses.**

9 (a) The Emergency Medical Services Advisory Council,
 10 ~~heretofore created and established by former section seven of this~~
 11 ~~article,~~ is continued for the purpose of developing standards, with
 12 the ~~commissioner~~ executive director. ~~standards for emergency~~
 13 ~~medical service personnel and for the purpose of providing advice~~
 14 ~~to the Office of Emergency Medical Services and the Commissioner~~
 15 ~~with respect to reviewing and making recommendations for, and~~
 16 ~~providing assistance to, the establishment and maintenance of~~
 17 ~~adequate emergency medical services for all portions of this state.~~

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

21 ~~(c)~~ (b) Effective July 1, 2014, The Council shall be composed
 22 of ~~fifteen~~ the following nine members appointed by the Governor by
 23 and with the advice and consent of the Senate: ~~The Mountain State~~
 24 ~~Emergency Medical Services Association shall submit to the Governor~~

~~1 a list of six names of representatives from its Association and a
2 list of three names shall be submitted to the Governor of
3 representatives of their respective organizations by the county
4 commissioners' Association of West Virginia, the West Virginia
5 State Firemen's Association, the West Virginia Hospital
6 Association,~~

7 (1) One person representing the West Virginia Chapter of the
8 American College of Emergency Physicians; ~~the West Virginia
9 Emergency Medical Services Administrators Association, the West
10 Virginia Emergency Medical Services Coalition, the Ambulance
11 Association of West Virginia and the state Department of Education.
12 The Governor shall appoint from the respective lists submitted two
13 persons who represent the Mountain State Emergency Medical Services
14 Association, one of whom shall be a paramedic and one of whom shall
15 be an emergency medical technician-basic; and one person from the
16 county commissioners' Association of West Virginia, the West
17 Virginia State Firemen's Association, the West Virginia Hospital
18 Association, the West Virginia Chapter of the American College of
19 Emergency Physicians, the West Virginia Emergency Medical Services
20 Administrators Association, the West Virginia Emergency Medical
21 Services Coalition, the Ambulance Association of West Virginia and
22 the state Department of Education. In addition, the Governor shall
23 appoint one person to represent emergency medical service providers
24 operating within the state, one person to represent small emergency~~

1 ~~medical service providers operating within this state and three~~
2 ~~persons to represent the general public.~~

3 (2) One person representing the West Virginia Chapter of the
4 American Heart Association;

5 (3) One person representing the West Virginia Chapter of the
6 American Academy of Pediatrics;

7 (4) One person representing the West Virginia Chapter of the
8 American College of Surgeons;

9 (5) One person representing West Virginia Community and
10 Technical Colleges;

11 (6) One person representing Regional Educational Service
12 Agencies;

13 (7) One person representing a teaching hospital in West
14 Virginia;

15 (8) One person representing a rural hospital in West Virginia;
16 and

17 (9) One citizen of West Virginia who is not licensed or
18 certified under the provisions of this article and does not perform
19 any services related to emergency medical services.

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

23 (d) The initial appointment terms shall be staggered. After
24 the initial appointment, each term is ~~to be~~ for ~~three~~ five years

1 and no member may serve more than ~~four~~ two consecutive terms.

2 (e) The council shall annually choose its own ~~chairman~~
3 chairperson and ~~meet at the call of the Commissioner at least twice~~
4 ~~a year.~~

5 (f) The council shall meet quarterly and any other meetings
6 may be held at the call of the executive director. The meetings
7 may be held in person or by electronic means.

8 ~~(f)(g)~~ The members of the council shall receive ~~compensation~~
9 ~~and~~ expense reimbursement in an amount not to exceed the same
10 ~~compensation and expense reimbursement as is paid to members of the~~
11 Legislature for their interim duties as recommended by the Citizens
12 Legislative Compensation Commission ~~and authorized by law for each~~
13 ~~day or substantial portion thereof engaged in the performance of~~
14 ~~official duties.~~

15 (h) The Governor may remove a board member for neglect of
16 duty, incompetence or official misconduct.

17 (i) A majority of the board members, regardless of any
18 vacancy, constitutes a quorum.

19 **§16-4C-5a. Powers and duties of the Emergency Medical Services**

20 **Advisory Council.**

21 The Emergency Medical Services Advisory Council may:

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

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

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

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

8 **§16-4C-6. Powers and duties of the executive director.**

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

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

13 ~~(a) (1) To propose rules for legislative approval in~~
 14 ~~accordance with the provisions of article three, chapter~~
 15 ~~twenty-nine-a of this code *Provided, That the rules have been*~~
 16 ~~submitted at least thirty days in advance for review by the~~
 17 ~~Emergency Medical Services Advisory Council, who may act only in~~
 18 ~~the presence of a quorum. The rules may that include:~~

19 ~~(1) (A) Standards and requirements for certification and~~
 20 ~~recertification of emergency medical service personnel, including:~~
 21 ~~but not limited to:~~

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

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

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

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

5 (v) The fee schedule for certification and recertification;
 6 and

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

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

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

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

19 ~~(C)~~ (iii) The fee schedule for ~~licensure~~ licenses, renewal of
 20 ~~licensure~~ licenses and other necessary costs;

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

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

24 ~~(F)~~ (vi) Administrative penalties, fines and other

1 disciplinary sanctions which may be imposed on agencies;

2 ~~(3)~~ (C) Standards and requirements for emergency medical
3 service vehicles, including classifications and specifications;

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

7 ~~(5)~~ ~~Standards and requirements for a State Medical Direction~~
8 ~~System, including qualifications for a state emergency medical~~
9 ~~services medical director and regional medical directors, the~~
10 ~~establishment of a State Medical Policy and Care Committee and the~~
11 ~~designation of regional medical command centers;~~

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

14 ~~(7)~~ (F) An authorization to temporarily suspend the license or
15 certification of an ~~individual~~ emergency medical service ~~provider~~
16 agency or personnel prior to a hearing or notice if the
17 ~~commissioner~~ executive director finds there is probable cause that
18 the conduct or continued service or practice of ~~any individual~~ a
19 license or certificate holder has or may create a danger to public
20 health or safety: *Provided*, That the ~~commissioner~~ executive
21 director may rely on information received from a physician that
22 serves as a squad medical director in finding that probable cause
23 exists to temporarily suspend the license or certification; and

24 ~~(8)~~ (G) Any other rules necessary to carry out the provisions

1 of this article.

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

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

10 ~~(1) To~~ (A) Encourage local participation by area, county and
11 community officials and regional emergency medical services boards
12 of directors; ~~and~~

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

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

17 ~~(d) To~~ (4) Provide professional and technical assistance and
18 to make information available to ~~regional emergency medical~~
19 ~~services boards of directors and other~~ potential applicants or
20 program sponsors of emergency medical services for purposes of
21 developing and maintaining a statewide system of services.

22 ~~(e) To~~ (5) Assist local government agencies, regional
23 emergency medical services boards of directors and other public or
24 private entities in obtaining federal, state or other available

1 funds and services.

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

5 ~~(g) To~~ (7) Acquire in the name of the state by grant,
6 purchase, gift, devise or any other appropriate methods ~~appropriate~~
7 real and personal property as may be reasonable and necessary to
8 carry out the purposes of this article.

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

13 ~~(i) To~~ (9) Expend and distribute by ~~grant or bailment~~ all
14 funds and property, which it may have acquired by grant or
15 appropriation, to all state and local agencies for the purpose of
16 performing the duties and responsibilities of the agency. ~~all funds~~
17 ~~which it may have so acquired or which may have been appropriated~~
18 ~~by the Legislature of this state.~~

19 ~~(j) To~~ (10) Develop a program to inform the public concerning
20 emergency medical services.

21 ~~(k) To review and disseminate information regarding federal~~
22 ~~grant assistance relating to emergency medical services.~~

23 ~~(l) To~~ (11) Prepare and submit to the Governor and Legislature
24 recommendations for legislation in the area of emergency medical

1 services.

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

10 ~~(n) To~~ (13) Take all necessary and appropriate action to
11 encourage and foster the cooperation of all emergency medical
12 service providers, agencies, personnel and facilities within this
13 state.

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

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

§16-4C-4a, §16-4C-4b and §16-4C-5a are new; therefore they
have been completely underscored.