

Senate Bill No. 361

(By Senator Snyder)

[Introduced January 16, 2014; referred to the Committee on
Government Organization; and then to the Committee on the
Judiciary.]

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

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

2 That §16-4C-3, §16-4C-4, §16-4C-5 and §16-4C-6 of the Code of
3 West Virginia, 1931, as amended, be amended and reenacted; and that
4 said code be amended by adding thereto three new sections,
5 designated §16-4C-4a, §16-4C-4b and §16-4C-5a, all to read as
6 follows:

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

8 **§16-4C-3. Definitions.**

9 As used in this article, unless the context clearly requires
10 a different meaning:

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

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

22 ~~(b) "Commissioner" means the Commissioner of the Bureau for~~
23 ~~Public Health;~~

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

3 (d) "Director" means the Executive Director of the Office of
4 Emergency Medical Service ~~in the Bureau for Public Health.~~

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

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

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

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

23 (I) "Governing body" ~~has the meanings ascribed to it as~~

1 ~~applied to a municipality in subdivision (1), subsection (b),~~
2 ~~section two, article one, chapter eight of this code~~ means a
3 political subdivision of this state;

4 (j) "Line officer" means the emergency medical service
5 personnel, present at the scene of an accident, injury or illness,
6 who has taken the responsibility for patient care;

7 (k) "Medical command" means the issuing of orders by a
8 licensed physician from a medical facility to emergency medical
9 service personnel for the purpose of providing appropriate patient
10 care;

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

17 (m) "Office" means the Office of Emergency Medical Services
18 within the Department of Health and Human Resources;

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

21 (o) "Secretary" means the Secretary of the Department of
22 Health and Human Resources;

23 ~~(n)~~ (p) "Service reciprocity" means the provision of emergency

1 medical services to citizens of this state by emergency medical
2 service personnel certified to render those services by a
3 neighboring state;

4 ~~(p)~~ (q) "Small emergency medical service provider" means any
5 emergency medical service provider which is made up of less than
6 twenty emergency medical service personnel; and

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

14 **§16-4C-4. Office of emergency medical services created; staffing.**

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

18 (a) The Office of Emergency Medical Services is continued and
19 commencing July 1, 2014, is an independent office within the
20 Department of Health and Human Resources.

21 (b) On or before July 1, 2014, the Secretary of the Department
22 of Health and Human Resources shall appoint an executive director
23 for the Office of Emergency Medical Services. The executive

1 director must be a graduate of an accredited college or university
2 with at least five years of administrative experience in a medical
3 field.

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

6 (1) A medical director who must be a physician licensed to
7 practice in West Virginia for at least five years and who has at
8 least five years of experience working with or in the field of
9 emergency medical services; and

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

13 (d) The ~~commissioner~~ executive director may employ any
14 technical, clerical, stenographic and other personnel as may be
15 necessary to carry out the purposes of this article. The personnel
16 may be paid from funds appropriated therefor or from other funds as
17 may be made available for carrying out the purposes of this
18 article.

19 ~~The office of emergency medical services as created by former~~
20 ~~section four, article four-d of this chapter, shall continue in~~
21 ~~existence as the office of emergency medical services established~~
22 ~~by this section.~~

23 **§16-4C-4a. Powers and duties of the Medical Director.**

1 (a) The executive director appoints the medical director. The
2 medical director is a part-time position as set by the executive
3 director.

4 (b) The medical director may establish and update state
5 medical protocols for emergency medical service agencies and
6 personnel. The medical director shall formulate the state medical
7 protocols with the advice of the Emergency Medical Service Advisory
8 Council.

9 (c) Prior to January 1, 2015, the medical director, with the
10 advice of the council, shall establish the basic state medical
11 protocols that are in concert with the national medical standards.
12 These basic state medical protocols become effective on January 1,
13 2015.

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

19 **§16-4C-4b. Powers and duties of the Administrative Director.**

20 (a) The executive director appoints the administrative
21 director. This is a full-time position with the salary set by the
22 executive director.

23 (b) The administrative director shall:

1 (1) Set Office policy, and oversee and manage the Office under
2 the direction of the Executive Director;

3 (2) Oversee the certification and licensing of emergency
4 medical service agencies and personnel, including enforcing
5 educational requirements;

6 (3) Investigate emergency medical service agencies and
7 personnel;

8 (4) Be the staff for the Emergency Medical Services Advisory
9 Council, including setting meeting dates, providing notice and
10 setting the agenda;

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

12 (6) Perform such other duties as directed by the Executive
13 Director.

14 **§16-4C-5. Emergency Medical Services Advisory Council; duties;**
15 **composition; appointment; meetings; compensation and**
16 **expenses.**

17 (a) The Emergency Medical Services Advisory Council,
18 ~~heretofore created and established by former section seven of this~~
19 ~~article,~~ is continued for the purpose of developing standards, with
20 the ~~commissioner~~ executive director, ~~standards for emergency~~
21 ~~medical service personnel and for the purpose of providing advice~~
22 ~~to the Office of Emergency Medical Services and the Commissioner~~
23 ~~with respect to reviewing and making recommendations for, and~~

1 ~~providing assistance to, the establishment and maintenance of~~
2 ~~adequate emergency medical services for all portions of this state.~~

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

6 ~~(c)~~ (b) Effective July 1, 2014, The Council shall be composed
7 of ~~fifteen~~ the following nine members appointed by the Governor by
8 and with the advice and consent of the Senate: ~~The Mountain State~~
9 ~~Emergency Medical Services Association shall submit to the Governor~~
10 ~~a list of six names of representatives from its Association and a~~
11 ~~list of three names shall be submitted to the Governor of~~
12 ~~representatives of their respective organizations by the county~~
13 ~~commissioners' Association of West Virginia, the West Virginia~~
14 ~~State Firemen's Association, the West Virginia Hospital~~
15 ~~Association,~~

16 (1) One person representing the West Virginia Chapter of the
17 American College of Emergency Physicians; ~~, the West Virginia~~
18 ~~Emergency Medical Services Administrators Association, the West~~
19 ~~Virginia Emergency Medical Services Coalition, the Ambulance~~
20 ~~Association of West Virginia and the state Department of Education.~~
21 ~~The Governor shall appoint from the respective lists submitted two~~
22 ~~persons who represent the Mountain State Emergency Medical Services~~
23 ~~Association, one of whom shall be a paramedic and one of whom shall~~

~~1 be an emergency medical technician basic; and one person from the
2 county commissioners' Association of West Virginia, the West
3 Virginia State Firemen's Association, the West Virginia Hospital
4 Association, the West Virginia Chapter of the American College of
5 Emergency Physicians, the West Virginia Emergency Medical Services
6 Administrators Association, the West Virginia Emergency Medical
7 Services Coalition, the Ambulance Association of West Virginia and
8 the state Department of Education. In addition, the Governor shall
9 appoint one person to represent emergency medical service providers
10 operating within the state, one person to represent small emergency
11 medical service providers operating within this state and three
12 persons to represent the general public.~~

13 (2) One person representing the West Virginia Chapter of the
14 American Heart Association;

15 (3) One person representing the West Virginia Chapter of the
16 American Academy of Pediatrics;

17 (4) One person representing the West Virginia Chapter of the
18 American College of Surgeons;

19 (5) One person representing West Virginia Community and
20 Technical Colleges;

21 (6) One person representing Regional Educational Service
22 Agencies;

23 (7) One person representing a teaching hospital in West

1 Virginia;

2 (8) One person representing a rural hospital in West Virginia;

3 and

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

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

10 (d) The initial appointment terms shall be staggered. After
11 the initial appointment, each term is ~~to be~~ for ~~three~~ five years
12 and no member may serve more than ~~four~~ two consecutive terms.

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

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

19 ~~(f)~~ (g) The members of the council shall receive ~~compensation~~
20 ~~and~~ expense reimbursement in an amount not to exceed the same
21 ~~compensation and~~ expense reimbursement as is paid to members of the
22 Legislature for their interim duties as recommended by the Citizens
23 Legislative Compensation Commission ~~and authorized by law for each~~

1 ~~day or substantial portion thereof engaged in the performance of~~
2 ~~official duties.~~

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

5 (I) A majority of the board members, regardless of any
6 vacancy, constitutes a quorum.

7 **§16-4C-5a. Powers and duties of the Emergency Medical Services**
8 **Advisory Council.**

9 The Emergency Medical Services Advisory Council may:

10 (1) Advise the medical director when he or she is formulating
11 the state medical protocols for emergency medical service agencies
12 and personnel;

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

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

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

20 **§16-4C-6. Powers and duties of the executive director.**

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

23 (b) The ~~commissioner~~ executive director has the following

1 powers and duties:

2 ~~(a)~~ (1) 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 been~~
5 ~~submitted at least thirty days in advance for review by the~~
6 ~~Emergency Medical Services Advisory Council, who may act only in~~
7 ~~the presence of a quorum. The rules may that include:~~

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

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

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

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

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

18 (v) The fee schedule for certification and recertification;

19 and

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

22 ~~(2)~~ (B) Standards and requirements for ~~licensure and licensure~~
23 ~~renewals~~ license and renewal of license of emergency medical

1 service agencies, including:

2 ~~(A)~~ (I) Operational standards, levels of service, personnel
3 qualifications and training, communications, public access, records
4 management, reporting requirements, medical direction, quality
5 assurance and review, and other requirements necessary for safe and
6 efficient operation;

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

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

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

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

14 ~~(F)~~ (vi) Administrative penalties, fines and other
15 disciplinary sanctions which may be imposed on agencies;

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

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

21 ~~(5) Standards and requirements for a State Medical Direction~~
22 ~~System, including qualifications for a state emergency medical~~
23 ~~services medical director and regional medical directors, the~~

1 ~~establishment of a State Medical Policy and Care Committee and the~~
2 ~~designation of regional medical command centers;~~

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

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

15 ~~(8)~~ (G) Any other rules necessary to carry out the provisions
16 of this article.

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

21 ~~(c)~~ To (3) Design, develop and review a Statewide Emergency
22 Medical Services Implementation Plan. The plan shall recommend aid
23 and assistance to: ~~and all other acts necessary to carry out the~~

1 ~~purposes of this article:~~

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

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

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

9 ~~(d) To~~ (4) Provide professional and technical assistance and
10 to make information available to ~~regional emergency medical~~
11 ~~services boards of directors and other~~ potential applicants or
12 program sponsors of emergency medical services for purposes of
13 developing and maintaining a statewide system of services.

14 ~~(e) To~~ (5) Assist local government agencies, regional
15 emergency medical services boards of directors and other public or
16 private entities in obtaining federal, state or other available
17 funds and services.

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

21 ~~(g) To~~ (7) Acquire in the name of the state by grant,
22 purchase, gift, devise or any other appropriate methods ~~appropriate~~
23 real and personal property as may be reasonable and necessary to

1 carry out the purposes of this article.

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

6 ~~(i) To~~ (9) Expend and distribute by ~~grant or bailment~~ all
7 funds and property, which it may have acquired by grant or
8 appropriation, to all state and local agencies for the purpose of
9 performing the duties and responsibilities of the agency. ~~all funds~~
10 ~~which it may have so acquired or which may have been appropriated~~
11 ~~by the Legislature of this state.~~

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

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

16 ~~(l) To~~ (11) Prepare and submit to the Governor and Legislature
17 recommendations for legislation in the area of emergency medical
18 services.

19 ~~(m) To~~ (12) Review, make recommendations for and assist in all
20 projects and programs that provide for emergency medical services
21 whether or not the projects or programs are funded through the
22 Office of Emergency Medical Services. A review and ~~approval~~ advice
23 shall be required for all emergency medical services projects,

1 programs or services for which application is made to receive state
2 or federal funds for their operation. ~~after the effective date of~~
3 ~~this act;~~ and

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

NOTE: The purpose of this bill is to continue the Office of
Emergency Medical Services as an independent office within the
Department of Health and Human Resources. 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,
strike-throughs and underscoring have been omitted.