

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5255

By Delegates Statler, Mallow, Sheedy, Ellington,

Toney, Jennings, Young and Summers

[Introduced January 29, 2024; Referred to the
Committee on Fire Departments and Emergency

Medical Services then the Judiciary]

1 A BILL to amend and reenact §16-4C-3 of the Code of West Virginia, 1931, as amended; to amend
 2 said code by adding thereto a new section, designated §16-4C-26; and to amend said
 3 code by adding thereto a new article, designated §33-63-1, all relating to emergency
 4 medical services; providing that an emergency medical services agency may triage and
 5 transport a patient to an alternate destination in certain circumstances; providing that
 6 insurance coverage of emergency medical services include triage, treat and transport to
 7 an alternative destination or to treat in place.

Be it enacted by the Legislature of West Virginia:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

§16-4C-3. Definitions.

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

2 (a) "Ambulance" means any privately or publicly-owned vehicle or aircraft which is
 3 designed, constructed or modified; equipped or maintained; and operated for the transportation of
 4 patients, including, but not limited to, emergency medical services vehicles; rotary and fixed wing
 5 air ambulances; gsa kkk-A-1822 federal standard type I, type II and type III vehicles; and
 6 specialized multipatient medical transport vehicles operated by an emergency medical services
 7 agency;

8 (b)(1) "Alternative destination" means a lower-acuity facility that provides medical services,
 9 including without limitation:

10 (A) A federally qualified health center;

11 (B) An urgent care center;

12 (C) A physician office or medical clinic, as selected by the patient; and

13 (D) A behavioral or mental healthcare facility including without limitation a crisis
 14 stabilization unit.

- 15 (2) "Alternative destination" does not include a:
- 16 (A) Critical access hospital;
- 17 (B) Dialysis center;
- 18 (C) Hospital;
- 19 (D) Private residence; or
- 20 (E) Skilled nursing facility;
- 21 ~~(b)~~ (c) "Commissioner" means the Commissioner of the Bureau for Public Health;
- 22 ~~(e)~~ (d) "Council" means the Emergency Medical Service Advisory Council created
- 23 pursuant to this article;
- 24 ~~(d)~~ (e) "Director" means the Director of the Office of Emergency Medical Service in the
- 25 Bureau for Public Health.
- 26 ~~(e)~~ (f) "Emergency Medical Services" means all services which are set forth in Public Law
- 27 93-154 "The Emergency Medical Services Systems Act of 1973" and those included in and made
- 28 a part of the emergency medical services plan of the Department of Health and Human Resources
- 29 inclusive of, but not limited to, responding to the medical needs of an individual to prevent the loss
- 30 of life or aggravation of illness or injury;
- 31 ~~(f)~~ (g) "Emergency medical service agency" means any agency licensed under section six-
- 32 a of this article to provide emergency medical services;
- 33 ~~(g)~~ (h) "Emergency medical service personnel" means any person certified by the
- 34 commissioner to provide emergency medical services as set forth by legislative rule;
- 35 ~~(h)~~ (i) "Emergency medical service provider" means any authority, person, corporation,
- 36 partnership or other entity, public or private, which owns or operates a licensed emergency
- 37 medical services agency providing emergency medical service in this state;
- 38 ~~(i)~~ (j) "Governing body" has the meanings ascribed to it as applied to a municipality in §8-1-
- 39 2(b)(2) of this code;
- 40 ~~(j)~~ (k) "Line officer" means the emergency medical service personnel, present at the scene

41 of an accident, injury or illness, who has taken the responsibility for patient care;

42 ~~(k)~~ (l) "Medical command" means the issuing of orders by a physician from a medical
43 facility to emergency medical service personnel for the purpose of providing appropriate patient
44 care;

45 ~~(l)~~ (m) "Municipality" has the meaning ascribed to it in §8-1-2(a)(1) of this code;

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

48 ~~(n)~~ (o) "Service reciprocity" means the provision of emergency medical services to citizens
49 of this state by emergency medical service personnel certified to render those services by a
50 neighboring state;

51 ~~(o)~~ (p) "Small emergency medical service provider" means any emergency medical service
52 provider which is made up of less than ~~twenty~~ 20 emergency medical service personnel; and

53 ~~(p)~~ (q) "Specialized multipatient medical transport" means a type of ambulance transport
54 provided for patients with medical needs greater than those of the average population, which may
55 require the presence of a trained emergency medical technician during the transport of the patient:
56 *Provided*, That the requirement of "greater medical need" may not prohibit the transportation of a
57 patient whose need is preventive in nature.

§16-4C-26 Triage, Treat and Transport to Alternative Destination.

1 (a) An emergency medical services agency may triage and transport a patient to an
2 alternative destination in this state or treat in place if the ambulance service is coordinating the
3 care of the patient through medical command or telehealth services with a physician for a medical-
4 based complaint or with a behavioral health specialist for a behavioral-based complaint.

5 (b) On or before May 28, 2024, the commissioner shall submit a proposed legislative rule
6 to the Emergency Medical Services Advisory Council for review, and on or before June 30, 2024,
7 shall file the proposed legislative rule with the Office of the Secretary of State, in accordance with
8 the provisions of §29A-3-1 et seq. of this code, to establish standards for emergency medical

9 service agencies to triage, treat and transport to alternative destinations.

CHAPTER 33. INSURANCE.

**ARTICLE 63. COVERAGE OF EMERGENCY MEDICAL SERVICES TO TRIAGE AND
TRANSPORT TO ALTERNATIVE DESTINATION OR TREAT IN PLACE.**

**§33-63-1 Coverage of Emergency Medical Services to Triage and Transport to Alternative
Destination or Treat in Place.**

1 (a) The following terms are defined:

2 (1) "911 call" means a communication indicating that an individual may need emergency
3 medical services;

4 (2) "Alternative destination" means a lower-acuity facility that provides medical services,
5 including without limitation:

6 (A) A federally qualified health center;

7 (B) An urgent care center;

8 (C) A physician office or medical clinic, as selected by the patient; and

9 (D) A behavioral or mental healthcare facility including without limitation a crisis
10 stabilization unit.

11 "Alternative destination" does not include a:

12 (A) Critical access hospital;

13 (B) Dialysis center;

14 (C) Hospital;

15 (D) Private residence; or

16 (E) Skilled nursing facility;

17 (3) "Emergency medical service agency" means any agency licensed under §16-4C-6a of
18 this code to provide emergency medical services;

19 (4) "Medical command" means the issuing of orders by a physician from a medical facility

20 to emergency medical service personnel for the purpose of providing appropriate patient care;

21 (5) "Telehealth services" means the use of synchronous or asynchronous
22 telecommunications technology or audio only telephone calls by a health care practitioner to
23 provide health care services, including, but not limited to, assessment, diagnosis, consultation,
24 treatment, and monitoring of a patient; transfer of medical data; patient and professional health-
25 related education; public health services; and health administration. The term does not include e-
26 mail messages or facsimile transmissions.

27 (b) Notwithstanding the provisions of §33-1-1 et seq. of this code, an insurer subject to
28 §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq. of
29 this code which issues or renews a health insurance policy on or after July 1, 2020, shall provide
30 coverage for:

31 (1) An emergency medical services agency to:

32 (A) Treat an enrollee in place if the ambulance service is coordinating the care of the
33 enrollee through telehealth services with a physician for a medical-based complaint or with a
34 behavioral health specialist for a behavioral-based complaint; or

35 (B) Triage or triage and transport an enrollee to an alternative destination if the ambulance
36 service is coordinating the care of the enrollee through telehealth services with a physician for a
37 medical-based complaint or with a behavioral health specialist for a behavioral-based complaint;
38 or

39 (C) An encounter between an ambulance service and enrollee that results in no transport
40 of the enrollee if:

41 (i) The enrollee declines to be transported against medical advice; and

42 (ii) The emergency medical service agency is coordinating the care of the enrollee through
43 telehealth services or medical command with a physician for a medical-based complaint or with a
44 behavioral health specialist for a behavioral-based complaint.

45 (c) The coverage under this section:

- 46 (1) Only includes emergency medical services transportation to the treatment location;
47 (2) Is subject to the initiation of response, triage and treatment as a result of a 911 call that
48 is documented in the records of the emergency medical services agency;
49 (3) Is subject to deductibles or copayment requirements of the policy, contract or plan;
50 (4) Does not diminish or limit benefits otherwise allowable under a health benefit plan,
51 even if the billing claims for medical or behavioral health services overlap in time that is billed by
52 the ambulance service also providing care.
- 53 (d) The reimbursement rate for an emergency medical services agency who triages, treats,
54 and transports a patient to an alternative destination, or triage, treat, and do not transport a patient
55 if the patient declines to be transported against medical advice, if the ambulance service is
56 coordinating the care of the enrollee through medical command or telemedicine with a physician
57 for a medical-based complaint or with a behavioral health specialist for a behavioral-based
58 complaint under this section shall be reimbursed at the same rate as if the patient were
59 transported to an emergency room of a facility provider.

NOTE: The purpose of this bill is to establish that an emergency medical services agency may triage and transport a patient to an alternative destination in this state or treat in place if the ambulance service is coordinating the care of the patient through medical command or telehealth services and to require insurance plans to provide coverage for those services.

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