

SB 262

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 262

(By Senator TOMBLIN, CH. PRESIDENT)

PASSED MARCH 9, 1996
In Effect NINETY DAYS FROM Passage

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OFFICE OF WEST VIRGINIA
SENATE CLERK OF STATE

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COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 262

(SENATOR TOMBLIN, MR. PRESIDENT, *original sponsor*)

[Passed March 9, 1996; in effect ninety days from passage.]

AN ACT to amend and reenact article four-c, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section six-a, all relating to establishing emergency medical services agencies; defining new terms and amending certain definitions; deleting references to the director; placing the office of emergency medical services within the bureau of public health; amending the composition of the advisory council, defining the length of members terms, terminating the existing council and appointing a new council on a date certain, staggering terms of newly appointed members; authorizing licensure of emergency medical services agencies, authorizing promulgation of legislative rules to determine licensure fees; deleting obsolete references to past-time require-

ments; establishing criminal penalties for violations of licensure; authorizing legislative rules for determining the services that may be provided by each class of personnel; and creating criminal penalties for obstructing, interfering with or causing bodily injury and specifying criminal penalties.

Be it enacted by the Legislature of West Virginia:

That article four-c, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section six-a, all to read as follows:

ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

§16-4C-1. Short title.

1 This article shall be known as the "Emergency Medical
2 Services Act of 1996".

§16-4C-2. Purposes of article.

1 The Legislature finds and declares: (1) That the safe
2 and efficient operation of life-saving and life-preserving
3 emergency medical service to meet the needs of citizens
4 of this state is a matter of general public interest and
5 concern; (2) to ensure the provision of adequate emer-
6 gency medical services within this state for the protec-
7 tion of the public health, safety and welfare, it is impera-
8 tive that minimum standards for emergency medical
9 service personnel be established and enforced by the
10 state; (3) that emergency medical service personnel
11 should meet minimum training standards promulgated
12 by the commissioner; (4) that it is the public policy of
13 this state to enact legislation to carry out these purposes
14 and comply with minimum standards for emergency
15 medical service personnel as specified herein; (5) that
16 any patient who receives emergency medical service and
17 who is unable to consent thereto should be liable for the
18 reasonable cost of such service; and (6) that it is the
19 public policy of this state to encourage emergency
20 medical service providers to do those things necessary to

21 carry out the powers conferred in this article unless
22 otherwise forbidden by law.

§16-4C-3. Definitions.

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

3 (a) "Ambulance" means any privately or publicly-
4 owned vehicle or aircraft which is designed, constructed
5 or modified; equipped or maintained; and operated for
6 the transportation of patients;

7 (b) "Commissioner" means the commissioner of the
8 bureau of public health;

9 (c) "Council" means the emergency medical service
10 advisory council created pursuant to section five of this
11 article;

12 (d) "Emergency medical services" means all services
13 which are set forth in Public Law 93-154 "The Emer-
14 gency Medical Services Act of 1973" and those included
15 in and made a part of the emergency medical services
16 plan of the department of health and human resources
17 inclusive of, but not limited to, responding to the medical
18 needs of an individual to prevent the loss of life or
19 aggravation of illness or injury;

20 (e) "Emergency medical service agency" means any
21 agency licensed under section six-a of this article to
22 provide emergency medical services;

23 (f) "Emergency medical service attendant" means a
24 person certified by the commissioner pursuant to the
25 provisions of section eight of this article to render the
26 services authorized pursuant to the provisions of section
27 fourteen of this article;

28 (g) "Emergency medical service personnel" means any
29 person certified by the commissioner to provide emer-
30 gency medical services authorized in section eight of this
31 article and includes, but is not limited to, emergency
32 medical service attendant, emergency medical

33 technician-basic and emergency medical technician-
34 paramedic;

35 (h) "Emergency medical service provider" means any
36 authority, person, corporation, partnership or other
37 entity, public or private, which owns or operates a
38 licensed emergency medical services agency providing
39 emergency medical service in this state;

40 (i) "Emergency medical technician-basic" means a
41 person certified by the commissioner pursuant to the
42 provisions of section eight of this article to render the
43 services authorized pursuant to the provisions of section
44 fourteen of this article;

45 (j) "Emergency medical technician-paramedic" means
46 a person certified by the commissioner pursuant to the
47 provisions of section eight of this article to render
48 services as authorized pursuant to the provisions of
49 section fourteen of this article;

50 (k) "Governing body" has the meanings ascribed to it
51 as applied to a municipality in subdivision (1), subsec-
52 tion (b), section two, article one, chapter eight of this
53 code;

54 (l) "Line officer" means the emergency medical service
55 personnel, present at the scene of an accident, injury or
56 illness, who has taken the responsibility for patient care;

57 (m) "Medical command" means the issuing of orders by
58 a physician from a medical facility to emergency medical
59 service personnel for the purpose of providing appropri-
60 ate patient care;

61 (n) "Municipality" has the meaning ascribed to it in
62 subdivision (1), subsection (a), section two, article one,
63 chapter eight of this code;

64 (o) "Patient" means any person who is a recipient of
65 the services provided by emergency medical services;

66 (p) "Service reciprocity" means the provision of
67 emergency medical services to citizens of this state by

68 emergency medical service personnel certified to render
69 those services by a neighboring state; and

70 (q) "Small emergency medical service provider" means
71 any emergency medical service provider which is made
72 up of less than twenty emergency medical service
73 personnel.

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

1 There is hereby created within state government under
2 the commissioner of the bureau of public health an office
3 to be known as the office of emergency medical services.

4 The commissioner may employ any technical, clerical,
5 stenographic and other personnel as may be necessary to
6 carry out the purposes of this article. The personnel may
7 be paid from funds appropriated therefor or from other
8 funds as may be made available for carrying out the
9 purposes of this article.

10 The office of emergency medical services as created by
11 former section four, article four-d of this chapter, shall
12 continue in existence as the office of emergency medical
13 services established by this section.

**§16-4C-5. Emergency medical services advisory council;
duties, composition, appointment, meetings,
compensation and expenses; continuation.**

1 The emergency medical services advisory council,
2 heretofore created and established by former section
3 seven of this article, shall be continued for the purpose
4 of developing, with the commissioner, standards for
5 emergency medical service personnel and for the purpose
6 of providing advice to the office of emergency medical
7 services and the commissioner with respect to reviewing
8 and making recommendations for and providing assis-
9 tance to the establishment and maintenance of adequate
10 emergency medical services for all portions of this state.

11 The council shall have the duty to advise the commis-
12 sioner in all matters pertaining to his or her duties and

13 functions in relation to carrying out the purposes of this
14 article.

15 The council shall be composed of fifteen members
16 appointed by the governor by and with the advice and
17 consent of the Senate. The mountain state emergency
18 medical services association shall submit to the governor
19 a list of six names of representatives from their associa-
20 tion and a list of three names shall be submitted to the
21 governor of representatives of their respective organiza-
22 tions by the county commissioners' association of West
23 Virginia, the West Virginia state firemen's association,
24 the West Virginia hospital association, the West Virginia
25 chapter of the American college of emergency physi-
26 cians, the West Virginia emergency medical services
27 administrators association, the West Virginia emergency
28 medical services coalition, the ambulance association of
29 West Virginia, the county commissioner's association
30 and the state department of education. The governor
31 shall appoint from the respective lists submitted, two
32 persons who represent the mountain state emergency
33 medical services association, one of whom shall be a
34 paramedic and one of whom shall be an emergency
35 medical technician-basic, and one person from the
36 county commissioners' association of West Virginia, the
37 West Virginia state firemen's association, the West
38 Virginia hospital association, the West Virginia chapter
39 of the American college of emergency physicians, the
40 West Virginia emergency medical services administrators
41 association, the West Virginia emergency medical
42 services coalition, the ambulance association of West
43 Virginia and the state department of education. In
44 addition the governor shall appoint one person to
45 represent emergency medical service providers operating
46 within the state, one person to represent small emer-
47 gency medical service providers operating within this
48 state and three persons to represent the general public.
49 Not more than six of the members may be appointed
50 from any one congressional district.

51 The current advisory council members' terms shall end

52 on the thirtieth day of June, one thousand nine hundred
53 ninety-six, and, pursuant to the provisions of this
54 section, the governor shall appoint an advisory council
55 on the first day of July, one thousand nine hundred
56 ninety-six. Of those first appointed, one-third shall
57 serve for one year, one-third shall serve for two years
58 and one-third shall serve for three years. Each subse-
59 quent term is to be for three years and no member may
60 serve more than four consecutive terms.

61 The council shall choose its own chairman and meet at
62 the call of the commissioner at least twice a year.

63 The members of the council may be reimbursed for any
64 and all reasonable and necessary expenses actually
65 incurred in the performance of their duties.

66 The Legislature hereby finds and declares that the
67 emergency medical services advisory council should be
68 continued and reestablished. Accordingly, notwith-
69 standing the provisions of article ten, chapter four of this
70 code, the emergency medical services advisory council
71 shall continue to exist until the first day of July, one
72 thousand nine hundred ninety-seven, to allow for
73 monitoring of compliance with recommendations con-
74 tained in the preliminary performance review through
75 the joint committee on government operations.

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

1 The commissioner shall have the following powers and
2 duties:

3 (a) In accordance with chapter twenty-nine-a of this
4 code, to propose rules regarding the age, training,
5 retraining, testing, certification and recertification of
6 emergency medical service personnel: *Provided*, That
7 the commissioner may not propose any rule required by
8 the provisions of this article until it has been submitted
9 for review to the emergency medical services advisory
10 council and this council has had at least thirty days to
11 review such proposed rule. The council may take no
12 action unless a quorum is present;

13 (b) To apply for, receive and expend advances, grants,
14 contributions and other forms of assistance from the
15 state or federal government or from any private or public
16 agencies or foundations to carry out the provisions of
17 this article;

18 (c) To design, develop and annually review a statewide
19 emergency medical services implementation plan. The
20 plan shall recommend aid and assistance and all other
21 acts necessary to carry out the purposes of this article:

22 (1) To encourage local participation by area, county
23 and community officials and regional emergency medical
24 services boards of directors; and

25 (2) To develop a system for monitoring and evaluating
26 emergency medical services programs throughout the
27 state;

28 (d) To provide professional and technical assistance
29 and to make information available to regional emergency
30 medical services boards of directors and other potential
31 applicants or program sponsors of emergency medical
32 services for purposes of developing and maintaining a
33 statewide system of services;

34 (e) To assist local government agencies, regional
35 emergency medical services boards of directors and other
36 public or private entities in obtaining federal, state or
37 other available funds and services;

38 (f) To cooperate and work with federal, state and local
39 governmental agencies, private organizations and other
40 entities as may be necessary to carry out the purposes of
41 this article;

42 (g) To acquire in the name of the state by grant,
43 purchase, gift, devise or any other methods appropriate
44 real and personal property as may be reasonable and
45 necessary to carry out the purposes of this article;

46 (h) To make grants and allocations of funds and
47 property so acquired or which may have been appropri-
48 ated to the agency to other agencies of state and local

49 government as may be appropriate to carry out the
50 purposes of this article;

51 (i) To expend and distribute by grant or bailment funds
52 and property to all state and local agencies for the
53 purpose of performing the duties and responsibilities of
54 the agency all funds which it may have so acquired or
55 which may have been appropriated by the Legislature of
56 this state;

57 (j) To develop a program to inform the public concern-
58 ing emergency medical services;

59 (k) To review and disseminate information regarding
60 federal grant assistance relating to emergency medical
61 services;

62 (l) To prepare and submit to the governor and Legisla-
63 ture recommendations for legislation in the area of
64 emergency medical services;

65 (m) To review, make recommendations for and assist in
66 all projects and programs that provide for emergency
67 medical services whether or not the projects or programs
68 are funded through the office of emergency medical
69 services. A review and approval shall be required for all
70 emergency medical services projects, programs or
71 services for which application is made to receive state or
72 federal funds for their operation after the effective date
73 of this act; and

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

77 Nothing in this article may be construed to allow the
78 commissioner to dissolve, invalidate or eliminate any
79 existing emergency medical service program or ambu-
80 lance providers in service at the time of adoption of the
81 amendment to this article in the regular session of the
82 Legislature in the year one thousand nine hundred
83 eighty-four, or to deny them fair access to federal and
84 state funding, medical facilities and training programs.

§16-4C-6a. Emergency medical services agency licensure.

1 Any person who proposes to establish or maintain an
2 emergency medical services agency shall file an applica-
3 tion with the commissioner. The application is to
4 include the identity of the applicant, any parent or
5 affiliated entity, the proposed level of service and the
6 number of emergency medical service response vehicles
7 of the agency or proposed agency. The commissioner
8 may require that additional information be included on
9 each application.

10 Upon receipt and review of the application the com-
11 missioner shall issue a license if he or she finds that the
12 applicant meets the requirements and quality standards,
13 to be established by the commissioner, for an emergency
14 medical services agency license, and if the applicant has
15 certified under penalty of perjury that he or she is
16 current with all lawful obligations owed the state of
17 West Virginia, excluding obligations owed in the current
18 quarter, including, but not limited to, payment of taxes
19 and workers' compensation premiums: *Provided*, That
20 the certification set forth in this paragraph shall be
21 required for the original application and subsequent
22 renewal thereof.

23 Upon review and consultation with the advisory
24 council the commissioner may, pursuant to the provi-
25 sions of article three, chapter twenty-nine-a of this code,
26 establish reasonable fee schedules for application and
27 licensure.

**§16-4C-7. Vehicles, aircraft and persons aboard them ex-
empted from requirements of article.**

1 The following vehicles and aircraft are exempted from
2 the provisions of this article and rules promulgated
3 pursuant to it and persons aboard them are not required
4 to comply with the provisions of section eight of this
5 article:

6 (a) Privately-owned vehicles and aircraft not ordinarily
7 used in the business or service of transporting patients;

8 (b) Vehicles and aircraft used as ambulances in case of
9 a catastrophe or emergency when the ambulances
10 normally staffed by certified emergency medical service
11 personnel based in the locality of the catastrophe or
12 emergency are insufficient to render the service re-
13 quired;

14 (c) Ambulances based outside this state, except that
15 emergency medical service personnel aboard any such
16 ambulance receiving a patient within this state for
17 transportation to a location within this state shall
18 comply with the provisions of this article and the rules
19 promulgated pursuant to it except in the event of a
20 catastrophe or emergency when the ambulances nor-
21 mally staffed by certified emergency medical service
22 personnel based in the locality of the catastrophe or
23 emergency are insufficient to render the services re-
24 quired;

25 (d) Ambulances owned by or operated under the direct
26 control of a governmental agency of the United States;
27 and

28 (e) Vehicles and aircraft designed primarily for rescue
29 operations which do not ordinarily transport patients.

**§16-4C-8. Standards for emergency medical service person-
nel.**

1 (a) Every ambulance operated by an emergency medi-
2 cal service agency shall carry at least two personnel. At
3 least one person shall be certified in cardiopulmonary
4 resuscitation or first aid and the person in the patient-
5 compartment shall be minimally certified as an emer-
6 gency medical technician-basic.

7 (b) As a minimum the training for each class of emer-
8 gency medical service personnel shall include:

9 (1) Emergency medical service attendant: Shall have
10 earned and possess valid certificates from the depart-
11 ment or by authorities recognized and approved by the
12 commissioner;

13 (2) Emergency medical technician-basic: Shall have
14 successfully completed the course for certification as an
15 emergency medical technician-basic as established by
16 the commissioner or authorities recognized and ap-
17 proved by the commissioner; and

18 (3) Emergency medical technician-paramedic: Shall
19 have successfully completed the course for certification
20 as an emergency medical technician-paramedic estab-
21 lished by the commissioner or authorities recognized and
22 approved by the commissioner.

23 The foregoing may not be considered to limit the power
24 of the commissioner to prescribe training, certification
25 and recertification standards.

26 (c) Any person desiring emergency medical service
27 personnel certification shall apply to the commissioner
28 using forms and procedures prescribed by the commis-
29 sioner. Upon receipt of the application, the commis-
30 sioner shall determine whether the applicant meets the
31 certification requirements and may examine the appli-
32 cant, if necessary to make that determination. If it is
33 determined that the applicant meets all of the require-
34 ments, the commissioner shall issue an appropriate
35 emergency medical service personnel certificate which
36 shall be valid for a period as determined by the commis-
37 sioner.

38 State and county continuing education and recertifica-
39 tion programs for all levels of emergency medical service
40 providers shall be available to emergency medical
41 service providers at a convenient site within one hundred
42 miles of the provider's primary place of operation at sites
43 determined by the regional emergency medical services
44 offices. The continuing education program shall be
45 provided at a cost specified in a fee schedule to be
46 promulgated by legislative rule in accordance with the
47 provisions of article three, chapter twenty-nine-a of this
48 code by the department of health to all nonprofit emer-
49 gency medical service personnel.

50 (d) The commissioner may issue a temporary emer-
51 gency medical service personnel certificate to an appli-
52 cant, with or without examination of the applicant, when
53 he or she finds that issuance to be in the public interest.
54 Unless suspended or revoked, a temporary certificate
55 shall be valid initially for a period not exceeding one
56 hundred twenty days and may not be renewed unless the
57 commissioner finds the renewal to be in the public
58 interest. The expiration date of a temporary certificate
59 shall be extended until the holder is afforded at least one
60 opportunity to take an emergency medical service
61 personnel training course within the general area where
62 he or she serves as an emergency medical service person-
63 nel, but the expiration date may not be extended for any
64 longer period of time or for any other reason.

**§16-4C-9. Suspension or revocation of certificate or tempo-
rary certificate or license.**

1 (a) The commissioner may at any time upon his or her
2 own motion, and shall, upon the verified written com-
3 plaint of any person, cause an investigation to be con-
4 ducted to determine whether there are any grounds for
5 the suspension or revocation of a certificate, temporary
6 certificate or license issued under the provisions of this
7 article.

8 (b) The commissioner shall suspend or revoke any
9 certificate, temporary certificate or license when he or
10 she finds the holder thereof has:

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

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

17 (3) Failed or refused to comply with the provisions of
18 this article or any reasonable rule promulgated by the
19 commissioner hereunder or any order or final decision of
20 the commissioner.

21 (c) The commissioner shall suspend or revoke any
22 certificate or temporary certificate if he or she finds the
23 existence of any grounds which would justify the denial
24 of an application for the certificate, temporary permit or
25 license if application were then being made for it.

**§16-4C-10. Notice of refusal, suspension or revocation of
certificate or license; appeals to commis-
sioner; judicial review.**

1 An application for an original, renewal or temporary
2 emergency medical service personnel certificate or
3 emergency medical services agency license, shall be
4 acted upon by the commissioner and the certificate
5 delivered or mailed, or a copy of any order of the com-
6 missioner denying any such application delivered or
7 mailed to the applicant, within fifteen days after the
8 date upon which the application including test scores, if
9 applicable, was received by the commissioner.

10 Whenever the commissioner refuses to issue an emer-
11 gency medical service personnel certificate or a tempo-
12 rary emergency medical service personnel certificate or
13 emergency medical services agency license, or suspends
14 or revokes an emergency medical service personnel
15 certificate, or a temporary emergency medical service
16 personnel certificate, he or she shall make and enter an
17 order to that effect, which shall specify the reasons for
18 the denial, suspension or revocation, and shall cause a
19 copy of the order to be served in person or by certified
20 mail, return receipt requested, on the applicant or
21 certificate or license holder, as the case may be.

22 Whenever a certificate or license is suspended or
23 revoked, the commissioner shall in the order of suspen-
24 sion or revocation direct the holder thereof to return his
25 or her certificate to the commissioner. It shall be the
26 duty of the certificate or license holder to comply with
27 any such order following expiration of the period
28 provided for an appeal to the commissioner.

29 Any applicant or certificate or license holder, ad-

30 versely affected by an order made and entered by the
31 commissioner may appeal to the commissioner for an
32 order vacating or modifying the order or for such order
33 as the commissioner should have entered. The person so
34 appealing shall be known as the appellant. An appeal
35 shall be perfected by filing a notice of appeal with the
36 commissioner within ten days after the date upon which
37 the appellant received the copy of the order. The notice
38 of appeal shall be in a form and contain the information
39 prescribed by the commissioner, but in all cases shall
40 contain a description of any order appealed from and the
41 grounds for the appeal. The filing of the notice of appeal
42 shall operate to stay or suspend execution of any order
43 which is the subject matter of the appeal. All of the
44 pertinent provisions of article five, chapter twenty-nine-
45 a of this code apply to and govern the hearing on appeal
46 and the administrative procedures in connection with
47 and following the hearing, with like effect as if the
48 provisions of said article were set forth in extenso
49 herein.

50 The commissioner shall set a hearing date which shall
51 be not less than ten days after he or she received the
52 notice of appeal unless there is a postponement or
53 continuance. The commissioner may postpone or con-
54 tinue any hearing on his or her own motion, or for good
55 cause shown upon the application of the appellant. The
56 appellant shall be given notice of the hearing in person
57 or by certified mail, return receipt requested. Any such
58 hearing shall be held in Charleston, Kanawha county,
59 West Virginia, unless another place is specified by the
60 commissioner.

61 After the hearing and consideration of all of the
62 testimony, evidence and record in the case, the commis-
63 sioner shall make and enter an order affirming, modify-
64 ing or vacating his or her initial order or shall make and
65 enter any new order. The order shall be accompanied by
66 findings of fact and conclusions of law as specified in
67 section three, article five, chapter twenty-nine-a of this
68 code, and a copy of the order and accompanying findings

69 and conclusions shall be served upon the appellant, in
70 person or by certified mail, return receipt requested.
71 The order of the commissioner shall be final unless
72 vacated or modified upon judicial review thereof.

73 Any appellant adversely affected by a final order made
74 and entered by the commissioner is entitled to judicial
75 review thereof. All of the pertinent provisions of section
76 four, article five, chapter twenty-nine-a of this code
77 shall apply to and govern the review with like effect as
78 if the provisions of said section were set forth in extenso
79 herein. The judgment of the circuit court shall be final
80 unless reversed, vacated or modified on appeal to the
81 supreme court of appeals in accordance with the provi-
82 sions of section one, article six, chapter twenty-nine-a of
83 this code.

§16-4C-11. Liability for cost of emergency medical service.

1 Any patient who receives an emergency medical
2 service and who is unable to give his or her consent to or
3 contract for the service, whether or not he or she has
4 agreed or consented to liability for the service, shall be
5 liable in implied contract to the entity providing the
6 emergency medical service for the cost thereof.

7 Any person who receives an emergency medical service
8 upon his or her request for the service shall be liable for
9 the cost thereof.

§16-4C-12. Violations; criminal penalties.

1 Any person who violates any condition of licensure or
2 operates an ambulance with an insufficient number of
3 emergency medical service personnel aboard when not
4 lawfully permitted to do so, or who represents himself or
5 herself as a certified emergency medical service person-
6 nel knowing the representation to be untrue, is guilty of
7 a misdemeanor, and, upon conviction thereof, shall be
8 fined not less than one hundred dollars nor more than
9 one thousand dollars.

§16-4C-13. Actions to enjoin violations; injunctive relief.

1 Whenever it appears to the commissioner that any
2 person has been or is violating or is about to violate any
3 provision of this article or any final order of the commis-
4 sioner, the commissioner may apply in the name of the
5 state, to the circuit court of the county in which the
6 violation or any part thereof has occurred, is occurring
7 or is about to occur, for an injunction against the person
8 and any other persons who have been, are or are about to
9 be, involved in, or in any way participating in, any
10 practices, acts or omissions, so in violation, enjoining the
11 person or persons from any such violation. The applica-
12 tion may be made and prosecuted to conclusion whether
13 or not any such violation has resulted or shall result in
14 prosecution or conviction under the provisions of section
15 twelve of this article.

16 Upon application by the commissioner, the circuit
17 courts of this state may by mandatory or prohibitory
18 injunction compel compliance with the provisions of this
19 article and all final orders of the commissioner.

20 The circuit court may issue a temporary injunction in
21 any case pending a decision on the merits of any applica-
22 tion filed.

23 The judgment of the circuit court upon any application
24 permitted by the provisions of this section shall be final
25 unless reversed, vacated or modified on appeal to the
26 supreme court of appeals. Any such appeal shall be
27 sought in the manner and within the time provided by
28 law for appeals from circuit courts in other civil cases.

**§16-4C-14. Services that may be performed by emergency
medical service personnel.**

1 Notwithstanding any other provision of law, emer-
2 gency medical service personnel, by each class, may
3 provide the services as determined by the commissioner
4 by legislative rule pursuant to the provisions of article
5 three, chapter twenty-nine-a.

**§16-4C-15. Powers of emergency medical service attendants,
emergency medical technicians-basic and**

**emergency medical technicians-paramedic
during emergency communications failures
and disasters.**

1 (a) In the event of a communications failure between
2 the certified emergency medical services agency person-
3 nel, as defined in section three of this article, and the
4 physician during an emergency situation, the certified
5 personnel is authorized to deliver the services as autho-
6 rized in section fourteen of this article.

7 (b) In the event of a disaster or other occurrence which
8 renders the communication system ineffective for
9 purposes of adequate individual direction between the
10 physician and the certified emergency medical services
11 agency personnel, the personnel may perform the ser-
12 vices as authorized pursuant to the provisions of section
13 fourteen and may release immediate control of the
14 patient to any other emergency medical service person-
15 nel in order to provide immediate services to other
16 patients affected by the disaster or other occurrence.

17 (c) In the event that services are provided under
18 subsection (a) or (b) of this section, the emergency
19 medical services personnel shall, within five days,
20 provide a report to the commissioner, on the forms
21 prescribed by him or her, of the services performed, the
22 identity of the patient and the circumstances justifying
23 the provision of the services. The commissioner may
24 require any other information deemed necessary.

**§16-4C-16. Limitation of liability; mandatory errors and
omissions insurance.**

1 (1) Every person, corporation, ambulance service,
2 emergency medical service provider, emergency ambu-
3 lance authority, emergency ambulance service or other
4 person which employs emergency medical service
5 personnel with or without wages for ambulance service
6 or provides ambulance service in any manner, shall
7 obtain a policy of insurance insuring the person or entity
8 and every employee, agent or servant thereof, against

9 loss from the liability imposed by law for damages
10 arising from any error or omission in the provision of
11 emergency medical services as enumerated by this
12 article, in an amount no less than one million dollars per
13 incident: *Provided*, That each emergency medical
14 services agency having less than this amount on the first
15 day of January, one thousand nine hundred ninety-six,
16 shall obtain the policy of insurance required in this
17 section in the amount of one million dollars on or before
18 the first day of March, one thousand nine hundred
19 ninety-seven. New applicants shall obtain the insurance
20 required in this section in the amount of one million
21 dollars.

22 (2) No emergency medical service personnel or emer-
23 gency medical service provider may be liable for civil
24 damages or injuries in excess of the amounts for which
25 the person or entity is actually insured, unless the
26 damages or injuries are intentionally or maliciously
27 inflicted.

28 (3) Every person or entity required to obtain a policy of
29 insurance as contemplated by this section, shall furnish
30 to the commissioner on or before the first day of January
31 of each calendar year proof of the existence of the policy
32 of insurance required by this section.

33 (4) In the event that any person or entity fails to secure
34 a policy of insurance before the person or entity under-
35 takes the provision of emergency medical services or
36 emergency medical service agency, whichever occurs
37 last, and keeps the policy of insurance in force thereaf-
38 ter, that person or entity is not entitled to the limited
39 immunity created by subsection (2) of this section:
40 *Provided*, That any physician, who gives instructions to
41 emergency medical service personnel without being
42 compensated therefor, or who treats any patient trans-
43 ported in an ambulance or treats any patient prior to the
44 transport, without being compensated therefor, is
45 entitled to the limited immunity provided in subsection
46 (2) of this section.

§16-4C-17. Limitation of liability for failure to obtain consent.

1 No emergency medical service personnel may be
2 subject to civil liability, based solely upon failure to
3 obtain consent in rendering emergency medical services
4 to any individual regardless of age where the patient is
5 unable to give his or her consent for any reason, includ-
6 ing minority, and where there is no other person reason-
7 ably available who is legally authorized to consent to the
8 providing of such care or who is legally authorized to
9 refuse to consent to the providing of such care.

10 Nothing in this article may be construed to require
11 medical treatment or transportation for any adult in
12 contravention of his or her stated objection thereto upon
13 religious grounds or pursuant to any living will or do not
14 resuscitate orders: *Provided*, That the emergency
15 medical service provider is actually aware of the living
16 will or do not resuscitate order.

§16-4C-18. Authority of emergency medical service personnel in charge of emergency medical services.

1 When any department, agency or entity which provides
2 emergency medical services under the authority of this
3 article is responding to, operating at or returning from
4 an emergency medical service, any emergency medical
5 service personnel serving in the capacity of an emer-
6 gency medical service line officer in charge, shall control
7 and direct the providing of emergency medical services.
8 The emergency medical service personnel serving in the
9 capacity of an emergency medical service line officer
10 shall determine whether a patient shall be transported
11 from the emergency scene, determine what care shall be
12 rendered prior to the transport, determine the appropri-
13 ate facility to which the patient shall be transported, and
14 otherwise fully direct and control the providing of
15 emergency medical services and patient care under the
16 direction of medical command.

17 Nothing included in this section may be construed to

18 restrict or interfere with the authority of a fire officer in
19 charge to supervise or direct those fire department
20 personnel under his or her command or to restrict any
21 person from entering a hazardous area for which the fire
22 officer has assumed the responsibility.

§16-4C-19. Obstructing or causing bodily injury to emergency medical service personnel; criminal penalties.

1 (a) It shall be unlawful for any person to intentionally
2 obstruct or interfere with any emergency medical service
3 agency personnel engaged in the act of delivering or adminis-
4 tering emergency medical services. Any person violating the
5 provisions of this subsection is guilty of a misdemeanor, and,
6 upon conviction thereof, shall be fined not more than one
7 thousand dollars or confined in the county or regional jail for
8 a period not more than one year, or both fined and confined.

9 (b) It shall be unlawful for any person to willfully cause
10 bodily injury to any person designated to be an emergency
11 medical personnel engaged in the act of delivering or
12 administering emergency medical services. Any person
13 violating the provisions of this subsection is guilty of a
14 felony, and, upon conviction thereof, shall be confined in the
15 penitentiary not less than one nor more than ten years or
16 fined not more than five thousand dollars, or both fined and
17 confined.

18 (c) Nothing in this section shall be construed to prevent
19 law-enforcement officials from controlling traffic and
20 otherwise maintaining order at the scene of an accident,
21 injury or illness where an emergency medical service agency
22 is rendering services.

§16-4C-20. Service reciprocity agreements for mutual aid.

1 Any persons or entities providing lawful emergency
2 medical services under the provisions of this article are
3 hereby authorized in their discretion to enter into and
4 renew service reciprocity agreements, for any period as
5 they may deem advisable, with the appropriate emer-
6 gency medical service providers, county, municipal or

7 other governmental units or in counties contiguous to the
8 state of West Virginia, in the state of Ohio, the common-
9 wealth of Pennsylvania, the state of Maryland, the
10 commonwealth of Virginia or the commonwealth of
11 Kentucky, in order to establish and carry into effect a
12 plan to provide mutual aid across state lines, through the
13 furnishing of properly certified personnel and equipment
14 for the provision of emergency medical services in this
15 state and the counties contiguous to this state upon
16 written approval by the commissioner.

17 No person or entity may enter into any such agreement
18 unless the agreement provides that each of the parties to
19 the agreement shall waive any and all claims against the
20 other parties thereto, which may arise out of their
21 activities outside of their respective jurisdictions under
22 the agreement and shall indemnify and save harmless the
23 other parties to the agreement from all claims by third
24 parties for property damages or personal injuries which
25 may arise out of the activities of the other parties to the
26 agreement outside their respective jurisdictions under
27 the agreement.

28 The commissioner is hereby authorized to enter into
29 service reciprocity agreements with appropriate officials
30 in other states for the purpose of providing emergency
31 medical services to the citizens of this state by emer-
32 gency medical service personnel properly certified in
33 their respective state or states. A formal agreement
34 between the commissioner and an authorized official of
35 another state shall be in effect prior to the service being
36 provided. Individual certification of other state emer-
37 gency medical service personnel is not required for
38 purposes of providing services to West Virginia citizens
39 following the creation of the agreement by the responsi-
40 ble officials.

**§16-4C-21. Restriction for provision of emergency medical
services by out-of-state emergency medical
service personnel or providers of emergency
medical services.**

1 The commissioner may issue an order on his or her own
2 motion upon written request of any emergency medical
3 service provider or county commission in this state, to
4 restrict an out-of-state provider of emergency medical
5 services or an out-of-state emergency medical service
6 personnel to a particular geographic area of the state of
7 West Virginia or prohibit the provider or personnel from
8 providing emergency medical services within the borders
9 of this state when in the opinion of the commissioner the
10 services are not required or do not meet the standards set
11 forth herein or those established by rules as authorized
12 by this article.

§16-4C-22. Transportation of unconscious or otherwise uncommunicative patients.

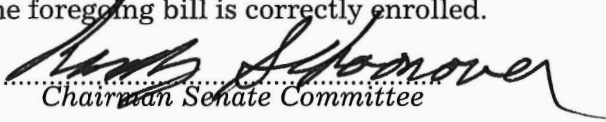
1 (a) Emergency medical service personnel shall trans-
2 port critically ill or injured, unconscious or otherwise
3 uncommunicative patients to the medical facility desig-
4 nated by the medical command physician.

5 (b) No person may have the right to direct emergency
6 medical service personnel to transport a patient to a
7 specific medical facility unless the person is the legal
8 guardian, parent of a minor or has power of attorney for
9 the critically injured or ill patient.

§16-4C-23. Authority of the commissioner to make rules.

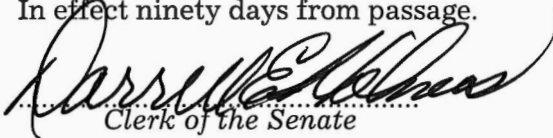
1 The commissioner shall promulgate rules pursuant to
2 the provisions of article three, chapter twenty-nine-a of
3 this code to carrying out the purposes of this article.

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

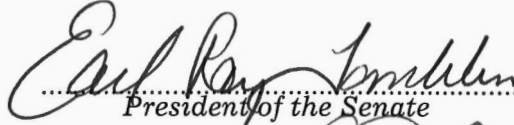

.....
Chairman Senate Committee


.....
Chairman House Committee

Originated in the Senate.
In effect ninety days from passage.


.....
Clerk of the Senate


.....
Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within is approved this the 15th
day of April, 1996.


.....
Governor

PRESENTED TO THE
GOVERNOR

Date 3/28/96

Time 9:30 am