CHAPTER 16. PUBLIC HEALTH.

ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

§16-4C-1. Short title.

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

§16-4C-2. Purposes of article.

The Legislature finds and declares: (1) That the safe and efficient operation of life-saving and life-preserving emergency medical service to meet the needs of citizens of this state is a matter of general public interest and concern; (2) to ensure the provision of adequate emergency medical services within this state for the protection of the public health, safety and welfare, it is imperative that minimum standards for emergency medical service personnel be established and enforced by the state; (3) that emergency medical service personnel should meet minimum training standards promulgated by the commissioner; (4) that it is the public policy of this state to enact legislation to carry out these purposes and comply with minimum standards for emergency medical service personnel as specified herein; (5) that any patient who receives emergency medical service and who is unable to consent thereto should be liable for the reasonable cost of such service; and (6) that it is the public policy of this state to encourage emergency medical service providers to do those things necessary to carry out the powers conferred in this article unless otherwise forbidden by law.

§16-4C-3. Definitions.

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

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

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

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

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

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

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

(g) "Emergency medical service personnel" means any person certified by the commissioner to provide emergency medical services as set forth by legislative rule;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The Emergency Medical Services Advisory Council, heretofore created and established by former section seven of this article, is continued for the purpose of developing, with the Commissioner, standards for emergency medical service personnel and for the purpose of providing advice to the Office of Emergency Medical Services and the Commissioner with respect to reviewing and making recommendations for, and providing assistance to, the establishment and maintenance of adequate emergency medical services for all portions of this state.

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

(c) The Council shall be composed of fifteen members appointed by the Governor by and with the advice and consent of the Senate. The Mountain State Emergency Medical Services Association shall submit to the Governor a list of six names of representatives from its Association and a list of three names shall be submitted to the Governor of representatives of their respective organizations by the County Commissioners' Association of West Virginia, the West Virginia State Firemen's Association, the West Virginia Hospital Association, the West Virginia Chapter of the American College of Emergency Physicians, the West Virginia Emergency Medical Services Administrators Association, the West Virginia Emergency Medical Services Coalition, the Ambulance Association of West Virginia and the state Department of Education. The Governor shall appoint from the respective lists submitted two persons who represent the Mountain State Emergency Medical Services Association, one of whom shall be a paramedic and one of whom shall be an emergency medical technician-basic; and one person from the County Commissioners' Association of West Virginia, the West Virginia State Firemen's Association, the West Virginia Hospital Association, the West Virginia Chapter of the American College of Emergency Physicians, the West Virginia Emergency Medical Services Administrators Association, the West Virginia Emergency Medical Services Coalition, the Ambulance Association of West Virginia and the state Department of Education. In addition, the Governor shall appoint one person to represent emergency medical service providers operating within the state, one person to represent small emergency medical service providers operating within this state and three persons to represent the general public. Not more than six of the members may be appointed from any one congressional district.

(d) Each term is to be for three years and no member may serve more than four consecutive terms.

(e) The Council shall choose its own chairman and meet at the call of the Commissioner at least twice a year.

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

§16-4C-5a.
Repealed.

Acts, 2010 Reg. Sess., Ch. 80. **§16-4C-6. Powers and duties of commissioner.**

The commissioner has the following powers and duties:

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

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

(A) Age, training, testing and continuing education;

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

(C) Levels of certification and the scopes of practice for each level;

(D) Standards of conduct; and

(E) Causes for disciplinary action and sanctions which may be imposed.

(2) Standards and requirements for licensure and licensure renewals of emergency medical service agencies, including:

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

(B) Inspection standards and establishment of improvement periods to ensure maintenance of the standards;

(C) Fee schedules for licensure, renewal of licensure and other necessary costs;

(D) Procedures for denying, suspending, revoking, reinstating or limiting an agency licensure;

(E) Causes for disciplinary action against agencies; and

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

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

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

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

(6) Provision of services by emergency medical services personnel in hospital emergency rooms;

(7) Authorization to temporarily suspend the certification of an individual emergency medical service provider prior to a hearing or notice if the commissioner finds there is probable cause that the conduct or continued service or practice of any individual certificate holder has or may create a danger to public health or safety: *Provided,* That the commissioner may rely on information received from a physician that serves as a medical director in finding that probable cause exists to temporarily suspend the certification; and

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

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

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

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

(2) To develop a system for monitoring and evaluating emergency medical services programs throughout the state.

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

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

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

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

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

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

(j) To develop a program to inform the public concerning emergency medical services.

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

(l) To prepare and submit to the Governor and Legislature recommendations for legislation in the area of emergency medical services.

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

(n) To take all necessary and appropriate action to encourage and foster the cooperation of all emergency medical service providers and facilities within this state. **§16-4C-6a. Emergency medical services agency licensure.**
(a) Any person who proposes to establish or maintain an emergency medical services agency shall file an application with the commissioner which includes the identity of the applicant, any parent or affiliated entity, the proposed level of service and the number of emergency medical service response vehicles of the agency or proposed agency. The commissioner

may require that additional information be included on each application.

(b) Upon receipt and review of the application the commissioner shall issue a license if he or she finds that the applicant meets the requirements and quality standards, to be established by the commissioner, for an emergency medical services agency license, and if the applicant has certified under penalty of perjury that he or she is current with all lawful obligations owed the State of West Virginia, excluding obligations owed in the current quarter, including, but not limited to, payment of taxes and workers' compensation premiums: *Provided,* That the certification set forth in this paragraph is required for the original application and subsequent renewals.

§16-4C-6b. Establishment of emergency medical services agency licensure fund; authorized expenditures; annual report.

(a) There is established in the State Treasury a special revenue fund designated the "Emergency Medical Services Agency Licensure Fund", which shall be administered by the Commissioner of the Bureau of Public Health.

(b) All application, personnel certification and recertification and agency licensing fees collected pursuant to the provisions of sections six, six-a and eight of this article shall be deposited into the fund and expended in accordance with the agency licensure and personnel certification and recertification duties imposed in this article.

(c) Any remaining balance, including accrued interest, in the fund at the end of the fiscal year shall not revert to the General Revenue Fund, but shall remain in the account.

(d) On or before January 1 of each year, the commissioner shall provide the Legislature with an annual fiscal year report on the emergency medical services agency licensure account including, but not limited to, the previous fiscal year's expenditures; projected expenditures for the current and next fiscal years; the number of agency licenses and personnel certifications and recertifications issued, denied, suspended or revoked; and, the status of licensure and certification hearings and court actions.

§16-4C-6c. Certification requirements for emergency medical technician-industrial.

(a) Commencing July 1, 2014, an applicant for certification as an emergency medical technician-industrial shall:

(1) Be at least eighteen years old;

(2) Apply on a form prescribed by the Commissioner;

(3) Pay the application fee;

(4) Possess a valid cardiopulmonary resuscitation (CPR) certification;

(5) Successfully complete an emergency medical technician- industrial education program authorized by the Commissioner in consultation with the Board of Miner Training, Education and Certification; and

(6) Successfully complete emergency medical technician- industrial cognitive and skills examinations authorized by the Commissioner in consultation with the Board of Miner Training, Education and Certification.

(b) The emergency medical technician-industrial certification is valid for three years.

(c) A certified emergency medical technician-industrial is only authorized to practice during his or her regular employment on industrial property. For the purposes of this section, "industrial property" means property being used for production, extraction or manufacturing activities.

(d) To be recertified as an emergency medical technician- industrial, a certificate holder shall:

(1) Apply on a form prescribed by the commissioner;

(2) Pay the application fee;

(3) Possess a valid cardiopulmonary resuscitation (CPR) certification;

(4) Successfully complete one of the following:

(A) A one-time thirty-two hour emergency medical technician- industrial recertification course authorized by the commissioner in consultation with the Board of Miner Training, Education and Certification; or

(B) Three annual eight-hour retraining and testing programs authorized by the commissioner in consultation with the Board of Miner Training, Education and Certification; and

(5) Successfully complete emergency medical technician- industrial cognitive and skills recertification examinations authorized by the commissioner in consultation with the Board of Miner Training, Education and Certification.

(e) Commencing July 1, 2014, the certification for emergency medical technician-miner, also known as emergency medical technician-mining, shall be known as the certification for emergency medical technician-industrial, and the certification is valid until the original expiration date, at which time the person may recertify as an emergency medical technician-industrial pursuant to this section.

(f) The education program, training, courses, and cognitive and skills examinations required for certification and recertification as an emergency medical technician-miner, also known as emergency medical technician-mining, in existence on January 1, 2014, shall remain in effect for the certification and recertification of emergency medical technician-industrial until they are changed by legislative rule by the commissioner in consultation with the Board of Miner Training, Education and Certification.

(g) The administration of the emergency medical technician- industrial certification and recertification program by the commissioner shall be done in consultation with the Board of Miner Training, Education and Certification.

(h) The commissioner shall propose rules for legislative approval, pursuant to the provisions of article three, chapter twenty-nine-a of this code, in consultation with the Board of Miner Training, Education and Certification, and may propose emergency rules, to:

(1) Establish emergency medical technician-industrial certification and recertification courses and examinations;

(2) Authorize providers to administer the certification and recertification courses and examinations, including mine training personnel, independent trainers, community and technical colleges, and Regional Educational Service Agencies (RESA): *Provided*, That the mine training personnel and independent trainers must have a valid cardiopulmonary resuscitation (CPR) certification and must be an approved MSHA or OSHA certified instructor;

(3) Establish a fee schedule: *Provided*, That the application fee may not exceed ten dollars and there shall be no fee for a certificate; and

(4) Implement the provisions of this section. **§16-4C-7. Vehicles, aircraft and persons aboard them exempted from requirements of article.**

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

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

(b) Vehicles and aircraft used as ambulances in case of a catastrophe or emergency when the ambulances normally staffed by certified emergency medical service personnel based in the locality of the catastrophe or emergency are insufficient to render the service required;

(c) Ambulances based outside this state, except that emergency medical service personnel aboard any such ambulance receiving a patient within this state for transportation to a location within this state shall comply with the provisions of this article and the rules promulgated pursuant to it except in the event of a catastrophe or emergency when the ambulances normally staffed by certified emergency medical service personnel based in the locality of the catastrophe or emergency are insufficient to render the services required;

(d) Ambulances owned by or operated under the direct controlof a governmental agency of the United States; and

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

§16-4C-8. Standards for emergency medical service personnel.

(a) Every ambulance operated by an emergency medical service agency shall carry at least two personnel. At least one person shall be certified in cardiopulmonary resuscitation or first aid and the person in the patient compartment shall be certified as an emergency medical technician-basic at a minimum except that in the case of a specialized multipatient medical transport, only one staff person is required and that person shall be certified, at a minimum, at the level of an emergency medical technician-basic. The requirements of this subsection will remain in effect until revised by the legislative rule to be promulgated pursuant to subsection (b) of this section.

(b) On or before May 28, 2010, the commissioner shall submit a proposed legislative rule to the Emergency Medical Services Advisory Council for review, and on or before June 30, 2010, shall file the proposed legislative rule with the office of the Secretary of State, in accordance with the provisions of chapter twenty-nine-a, article three of this code, to establish certification standards for emergency medical vehicle operators and to revise the requirements for emergency medical service personnel.

(c) As of the effective date of the legislative rule to be promulgated pursuant to subsection (b) of this section, emergency medical service personnel who operate ambulances shall meet the requirements set forth in the legislative rule.

(d) Any person desiring emergency medical service personnel certification shall apply to the commissioner using forms and procedures prescribed by the commissioner. Upon receipt of the application, the commissioner shall determine whether the applicant meets the certification requirements and may examine the applicant, if necessary to make that determination.

(e) The applicant shall submit to a national criminal background check, the requirement of which is declared to be not against public policy.

(1) The applicant shall meet all requirements necessary to accomplish the national criminal background check, including submitting fingerprints, and authorizing the West Virginia Office of Emergency Medical Services, the West Virginia State Police and the Federal Bureau of Investigation to use all records submitted and produced for the purpose of screening the applicant for certification.

(2) The results of the national criminal background check may not be released to or by a private entity.

(3) The applicant shall submit a fee of $75 for initial certification and a fee of $50 for recertification. The fees set forth in this subsection remain in effect until modified by legislative rule.

(f) An application for an original, renewal or temporary emergency medical service personnel certificate or emergency medical services agency license, shall be acted upon by the commissioner and the certificate or license delivered or mailed, or a copy of any order of the commissioner denying any such application delivered or mailed to the applicant, within fifteen days after the date upon which the complete application including test scores and background checks, if applicable, was received by the commissioner.

(g) Any person may report to the commissioner or the Director of the Office of Emergency Medical Services information he or she may have that appears to show that a person certified by the commissioner may have violated the provisions of this article or legislative rules promulgated pursuant to this article. A person who is certified by the commissioner, who knows of or observes another person certified by the commissioner violating the provisions of this article or legislative rules promulgated pursuant to this article, has a duty to report the violation to the commissioner or director. Any person who reports or provides information in good faith is immune from civil liability.

(h) The commissioner may issue a temporary emergency medical service personnel certificate to an applicant, with or without examination of the applicant, when he or she finds that issuance to be in the public interest. Unless suspended or revoked, a temporary certificate shall be valid initially for a period not exceeding one hundred twenty days and may not be renewed unless the commissioner finds the renewal to be in the public interest.

§16-4C-9. Complaints; investigations; due process procedure; grounds for disciplinary action.

(a).The commissioner may at any time upon his or her own motion, and shall, upon the written complaint of any person, cause an investigation to be conducted to determine whether grounds exist for disciplinary action under this article or legislative rules promulgated pursuant to this article.

(b) An investigator or other person who, under the direction of the commissioner or the director, gathers or reports information in good faith to the commissioner or the director, is immune from civil liability.

(c) After reviewing any information obtained through an investigation, the commissioner or director shall determine if probable cause exists that the licensee or certificate holder has violated any provision of this article or rules promulgated pursuant to this article.

(d) Upon a finding that probable cause exists that the licensee or certificate holder has violated any provision of this article or rules promulgated pursuant to this article, the commissioner or director shall provide a copy of the complaint and notice of hearing to the licensee or certificate holder. Upon a finding of probable cause that the conduct or continued service or practice of any individual certificate holder may create a danger to public health or safety, the commissioner may temporarily suspend the certification prior to a hearing or notice: *Provided,* That the commissioner may rely on information received from a physician that serves as a medical director in finding that probable cause exists to temporarily suspend the certification: *Provided, however,* That the commissioner shall simultaneously institute proceedings for a hearing in accordance with section ten of this article.

(e) The commissioner or the director may enter into a consent decree or hold a hearing for the suspension or revocation of the license or certification or the imposition of sanctions against the licensee or certificate holder.

(f) The commissioner or the director issue subpoenas and subpoenas duces tecum to obtain testimony and documents to aid in the investigation of allegations against any person or agency regulated by the article.

(g) The commissioner or the director may sign a consent decree or other legal document related to the complaint.

(h) The commissioner shall suspend or revoke any certificate, temporary certificate or license when he or she finds the holder has:

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

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

(3) Failed or refused to comply with the provisions of this article or any legislative rule promulgated by the commissioner or any order or final decision of the commissioner; or

(4) Engaged in any act during the course of duty which has endangered or is likely to endanger the health, welfare or safety of the public.

(i) The commissioner or the director may, after notice and opportunity for hearing, deny or refuse to renew, suspend or revoke the license or certification of, impose probationary conditions upon or take disciplinary action against, any licensee or certificate holder for any violation of this article or any rule promulgated pursuant to this article, once a violation has been proven by a preponderance of the evidence.

(j) Disciplinary action may include:

(1) Reprimand;

(2) Probation;

(3) Administrative penalties and fines;

(4) Mandatory attendance at continuing education seminars or other training;

(5) Practicing under supervision or other restriction;

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

(7) Other disciplinary action considered by the commissioner or director to be necessary to protect the public, including advising other parties whose legitimate interests may be at risk; or

(8) Other sanctions as set forth by legislative rule promulgated pursuant to this article.

(k) The commissioner shall suspend or revoke any certificate, temporary certificate or license if he or she finds the existence of any grounds which would justify the denial of an application for the certificate, temporary certificate or license if application were then being made for it. **§16-4C-10. Procedures for hearing; right of appeal; judicial review.**
(a) Hearings are governed by the provisions of article five, chapter twenty-nine a of this code.

(b) The commissioner or director may conduct the hearing or elect to have an Administrative Law Judge conduct the hearing.

(c) If the hearing is conducted by an Administrative Law Judge, the Administrative Law Judge shall prepare a proposed written order at the conclusion of a hearing containing findings of fact and conclusions of law. The proposed order may contain proposed disciplinary actions if the commissioner or director so directs. The commissioner may accept, reject or modify the decision of the Administrative Law Judge.

(d) The commissioner or director has the authority to administer oaths, examine any person under oath and issue subpoenas and subpoenas duces tecum.

(e) If, after a hearing, the commissioner or director determines the licensee or holder of a certificate has violated any provision of this article or the legislative rules promulgated pursuant to this article, a formal written decision shall be prepared which contains findings of fact, conclusions of law and a specific description of the disciplinary actions imposed.

(f) The order of the Commissioner or director is final unless vacated or modified upon judicial review.

(g) Any licensee or certificate holder adversely affected by a final order made and entered by the commissioner or director is entitled to judicial review. All of the pertinent provisions of section four, article five, chapter twenty-nine-a of this code apply to and govern the review with like effect as if the provisions of the section were set forth herein.

(h) The judgment of the circuit court is final unless reversed, vacated or modified on appeal to the Supreme Court of Appeals in accordance with the provisions of section one, article six, chapter twenty-nine-a of this code.

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

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

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

§16-4C-12. Violations; criminal penalties.
(a) When, as a result of an investigation under this article or otherwise, the commissioner or director has reason to believe that a licensee or certificate holder has committed a criminal offense, the commissioner or director may bring the information to the attention of an appropriate law-enforcement official.

(b) Any person who violates any law or rule or operates an ambulance with an insufficient number of emergency medical service personnel aboard when not lawfully permitted to do so, or who represents himself or herself as a certified emergency medical service personnel knowing the representation to be untrue, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $1,000: *Provided,* That after July 1, 2010, the fine shall not be more than $5,000.

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

Whenever it appears to the commissioner that any person has been or is violating or is about to violate any provision of this article or any final order of the commissioner, the commissioner may apply in the name of the state, to the circuit court of the county in which the violation or any part thereof has occurred, is occurring or is about to occur, for an injunction against the person and any other persons who have been, are or are about to be, involved in, or in any way participating in, any practices, acts or omissions, so in violation, enjoining the person or persons from any such violation. The application may be made and prosecuted to conclusion whether or not any such violation has resulted or shall result in prosecution or conviction under the provisions of section twelve of this article.

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

The circuit court may issue a temporary injunction in any case pending a decision on the merits of any application filed.

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

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

Notwithstanding any other provision of law, emergency medical service personnel may provide the services as determined by the commissioner by legislative rule pursuant to the provisions of article three, chapter twenty-nine-a of this code. Legislative rules governing provision of these services in a hospital emergency room setting shall be developed by the commissioner and shall include provisions allowing paramedics to function under the direct supervision of a registered professional nurse in a hospital emergency room setting. Provision of these services in an emergency room hospital setting shall not be initiated until a legislative rule establishing training requirements, standards and requirements for these functions is in effect. The Legislature therefore directs the commissioner to propose this legislative rule on or before the first day of July, two thousand six. Further, the Commissioner may promulgate this rule as an emergency rule pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code. Any rule so promulgated shall provide that paramedics are under the jurisdiction of the commissioner. The West Virginia Board of Registered Professional Nurses may propose legislative rules, pursuant to article three, chapter twenty-nine-a of the code relating to the scope of practice for nurses as those practices relates to overseeing these paramedics. The provisions of this section and any rules promulgated thereunder may not be construed to alter in any manner the duties, role or responsibilities of attending physicians regarding the providing and oversight of patient care.

§16-4C-15. Powers of emergency medical service attendants, emergency medical technicians-basic and emergency medical technicians-paramedic during emergency communications failures and disasters.

(a) In the event of a communications failure between the certified emergency medical services agency personnel, as defined in section three of this article, and the physician during an emergency situation, the certified personnel is authorized to deliver the services as authorized in section fourteen of this article.

(b) In the event of a disaster or other occurrence which renders the communication system ineffective for purposes of adequate individual direction between the physician and the certified emergency medical services agency personnel, the personnel may perform the services as authorized pursuant to the provisions of section fourteen and may release immediate control of the patient to any other emergency medical service personnel in order to provide immediate services to other patients affected by the disaster or other occurrence.

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

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

(a) Every person, corporation, ambulance service, emergency medical service provider, emergency ambulance authority, emergency ambulance service or other person which employs emergency medical service personnel with or without wages

for ambulance service or provides ambulance service in any manner, shall obtain a policy of insurance insuring the person or entity and every employee, agent or servant, against loss from the liability imposed by law for damages arising from any error or omission in the provision of emergency medical services as enumerated by this article, in an amount no less than $1 million per incident.

(b) No emergency medical service personnel or emergency medical service provider is liable for civil damages or injuries in excess of the amounts for which the person or entity is actually insured, unless the damages or injuries are intentionally or maliciously inflicted.

(c) Every person or entity required by this section to obtain a policy of insurance shall furnish proof of the existence of the policy to the commissioner on or before January 1 of each calendar year.

(d) Any person or entity who fails to secure a policy of insurance before providing emergency medical services is not entitled to the limited liability created by subsection (b) of this section: *Provided,* That any physician, who gives instructions to emergency medical service personnel without being compensated, or who treats any patient transported in an ambulance or treats any patient prior to the transport, without being compensated, is entitled to the limited liability provided in subsection (b) of this section.

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

No emergency medical service personnel may be subject to civil liability, based solely upon failure to obtain consent in rendering emergency medical services to any individual regardless of age where the patient is unable to give his or her consent for any reason, including minority, and where there is no other person reasonably available who is legally authorized to consent to the providing of such care or who is legally authorized to refuse to consent to the providing of such care.

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

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

When any department, agency or entity which provides emergency medical services under the authority of this article is responding to, operating at or returning from an emergency medical service, any emergency medical service personnel serving in the capacity of an emergency medical service line officer in charge, shall control and direct the providing of emergency medical services. The emergency medical service personnel serving in the capacity of an emergency medical service line officer shall determine whether a patient shall be transported from the emergency scene, determine what care shall be rendered prior to the transport, determine the appropriate facility to which the patient shall be transported, and otherwise fully direct and control the providing of emergency medical services and patient care under the direction of medical command.

Nothing included in this section may be construed to restrict or interfere with the authority of a fire officer in charge to supervise or direct those fire department personnel under his or her command or to restrict any person from entering a hazardous area for which the fire officer has assumed the responsibility.

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

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

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

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

(d) No person may willfully fail or refuse to comply with a lawful order or direction of any emergency medical service agency personnel engaged in the act of delivering or administering emergency medical services, relating to directing, controlling or regulating traffic, so long as such order or direction is conveyed by a retro-reflective hand signing device. Any person violating the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof: (1) For a first offense shall be fined not more than one hundred dollars; (2) for a second offense occurring within one year of a previous conviction shall be fined not more than two hundred dollars; and (3) for a third and subsequent offense shall be fined not more than five hundred dollars.

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

Any persons or entities providing lawful emergency medical services under the provisions of this article are hereby authorized in their discretion to enter into and renew service reciprocity agreements, for any period as they may deem advisable, with the appropriate emergency medical service providers, county, municipal or other governmental units or in counties contiguous to the state of West Virginia, in the state of Ohio, the commonwealth of Pennsylvania, the state of Maryland, the commonwealth of Virginia or the commonwealth of Kentucky, in order to establish and carry into effect a plan to provide mutual aid across state lines, through the furnishing of properly certified personnel and equipment for the provision of emergency medical services in this state and the counties contiguous to this state upon written approval by the commissioner.

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

The commissioner is hereby authorized to enter into service reciprocity agreements with appropriate officials in other states for the purpose of providing emergency medical services to the citizens of this state by emergency medical service personnel properly certified in their respective state or states. A formal agreement between the commissioner and an authorized official of another state shall be in effect prior to the service being provided. Individual certification of other state emergency medical service personnel is not required for purposes of providing services to West Virginia citizens following the creation of the agreement by the responsible 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.

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

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

(a) Emergency medical service personnel shall transport critically ill or injured, unconscious or otherwise uncommunicative patients to the medical facility designated by the medical command physician.

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

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

(a) The commissioner shall propose for promulgation, legislative rules pursuant to article three, chapter twenty-nine-a of this code to carry out the purposes of this article.

(b) Notwithstanding the provisions of subsection (a), section six of this article, the commissioner shall propose for promulgation a legislative rule regulating fire department rapid response services, pursuant to article three, chapter twenty-nine-a of this code which: (1) Establishes licensure and certification requirements for fire department rapid response services who do not charge for their services or transport patients; (2) incorporates necessary applicable emergency medical services requirements for licensure for "emergency medical services" as the requirements apply to fire departments and as defined in subsection (d), section three of this article; and (3) creates an exemption from license and inspection fees for fire departments that do not charge fees for their services and which authorizes such fire departments to conduct self inspections of their emergency vehicles in accordance with any applicable state or federal requirements for emergency medical service vehicles. The commissioner shall file the rule required by this subsection as an emergency rule on or before the first day of July, one thousand nine hundred ninety-nine. The Legislature hereby finds that an emergency exists compelling promulgation of an emergency rule, consistent with the provisions of this subsection.

Note: WV Code updated with legislation passed through the 2015 Regular Session
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CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.
ARTICLE 15. EMERGENCY AMBULANCE SERVICE ACT OF 1975.

§7-15-1. Short title.
This article shall be known and may be cited as the "Emergency Ambulance Service Act of 1975."

§7-15-2. Legislative findings and declaration of policy.
The Legislature hereby finds and declares:

(a) That a significant part of the population of this state does not have adequate emergency ambulance service;

(b) That the establishment and maintenance of adequate emergency ambulance systems for the entire state is necessary to promote the health and welfare of the citizens and residents of this state;

(c) That emergency ambulance service is not likely to become available to all the citizens and residents of this state unless specific requirements therefor are provided by law;

(d) That emergency ambulance service is a public purpose and a responsibility of government for which public money may be spent; and

(e) This article is enacted in view of these findings and shall be liberally construed in the light thereof.

§7-15-3. Definitions.
As used in this article, unless a different meaning appears from the context:

(a) "Authority" means any emergency ambulance service authority created pursuant to the provisions of this article;

(b) "Board" means the board of any emergency ambulance service authority;

(c) "Contiguous counties" means two or more counties which constitute a compact territorial unit within an unbroken boundary wherein one county touches at least one other county, but does not require that each county touch all of the other counties so combining;

(d) "Facilities and equipment" means all real and personal property of every kind and character owned or held by any emergency ambulance service authority;

(e) "Participating government" means any municipality or county establishing or participating in an emergency ambulance service authority;

(f) "Project" means any undertaking of an authority;

(g) "Revenues" means the gross receipts derived directly or indirectly from or in connection with the operation of an authority and shall include, without limitation, all fees, rates, fares, rentals or other income actually received or receivable by or for the account of an authority from the operation of the authority's facilities and equipment, and any other receipts from whatever source derived;

(h) "Service area of the authority" means and includes an area commensurate with the territorial boundaries of each participating government and beyond to the extent permitted by any agreement with any county or municipality which is not a participating government in the project;

(i) "System" means any emergency ambulance service provided pursuant to the provisions of this article; and

(j) The singular shall include the plural and the plural shall include the singular.

§7-15-4. Duty of county commissions to provide emergency ambulance service; emergency ambulance service authorities authorized; authorities to be public corporations.

Except as hereinafter provided and in addition to all other duties imposed upon it by law, the county commission shall cause emergency ambulance service to be made available to all the residents of the county where such service is not otherwise

secretary shall send to all the members, at least two days in advance of a special meeting, a written notice setting forth the time and place of the special meeting and the matters to be considered at such special meeting. Written notice of a special meeting is not required if the time of the special meeting has been fixed in a regular meeting or if all the members are present at the special meeting. All regular meetings shall be general meetings for the consideration of any and all matters which may properly come before an authority. All proceedings of the authority shall be entered in a permanently bound record book, properly indexed, and shall be carefully preserved by the secretary of the authority. All records of the authority shall be public records.

§7-15-8. Quorum; majority vote required.
A majority of the members of the board shall constitute a quorum. The vote of a majority of all members present at any meeting of the board shall be necessary to take any action.

§7-15-9. Budget.
The board shall establish the beginning and ending of its fiscal year, which period shall constitute its budget year, and, at least thirty days prior to the beginning of the first full fiscal year after the creation of the authority and annually thereafter, the treasurer shall prepare and submit to the board a tentative budget. The tentative budget shall be considered by the board, and, subject to any revisions or amendments that may be determined by the board, shall be adopted as the budget for the ensuing fiscal year. No expenditures in excess of the budget shall be made during such fiscal year unless expressly authorized and directed by the board.

§7-15-10. Powers and duties of authorities generally.
Each authority is hereby given the power:

(a) To sue and be sued, implead and be impleaded;

(b) To have and use a seal and alter the same at pleasure;

(c) To make and adopt all rules and regulations and bylaws as may be necessary or desirable to enable it to exercise the powers and perform the duties conferred or imposed upon it by the provisions of this article;

(d) To provide emergency ambulance service, maintain and operate such service, and employ, in its discretion, planning consultants, attorneys, accountants, superintendents, managers and such other employees and agents as may be necessary in its judgment and fix their compensation;

(e) To acquire by grant, purchase, gift, devise or lease and to hold, use, sell, lease or otherwise dispose of real and personal property of every kind and nature whatsoever, licenses, franchises, rights and interests necessary for the full exercise of its powers pursuant to the provisions of this article or which may be convenient or useful for the carrying out of such powers;

(f) To enter into contracts and agreements which are necessary, convenient or useful to carry out the purposes of this article with any person, public corporation, state or any agency or political subdivision thereof and the federal government and any department or agency thereof, including, without limitation, contracts and agreements for the joint use of any property and rights by the authority and any person or authority operating any system, whether within or without the service area of the authority, and contracts and agreements with any person or authority for the maintenance, servicing, storage, operation or use of any system or part thereof, facility or equipment on such basis as shall seem proper to its board;

(g) To enter into contracts and agreements for superintendence and management services with any person, who has executive personnel with experience and skill applicable to the superintendence and management of any system, for the furnishing of its services and the services of experienced and qualified personnel for the superintendence and management of any system or any part thereof, including, without limitation, superintendence over personnel, purchases, properties and operations and all matters relating thereto, and any revenue bond trust indenture may require such contract or agreement, but the personnel whose services are to be so furnished under any such contract or agreement shall not include any member of the board, any member of the immediate family of a member of the board or any agents or employees of the authority;

(h) To execute security agreements, contracts, leases, equipment trust certificates and any other forms of contract or agreement, granting or creating a lien, security interest, encumbrance or other security in, on or to facilities and equipment,

officers, employees, agents or consultants, shall contract with the authority or be interested in, either directly or indirectly, any contract with the authority or in the sale of property, either real or personal, to such authority.

§7-15-16. Competitive bids; publication of solicitation for sealed bids.

A purchase of or contract for all supplies, equipment and materials and a contract for the construction of facilities by any authority, when the expenditure required exceeds the sum of ten thousand dollars, shall be based on competitive sealed bids. Bids shall be obtained by public notice published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for publication is the service area of the authority. The second publication shall be made at least fourteen days before the final date for submitting bids. In addition to publication, the notice may also be published by any other advertising medium the authority may consider advisable and the authority may also solicit sealed bids by sending requests by mail to prospective suppliers and by posting notice on a bulletin board in the office of the authority.

§7-15-17. Imposition and collection of special emergency ambulance service fee by county commission.

A county commission may, by ordinance, impose upon and collect from the users of emergency ambulance service within the county a special service fee, which shall be known as the "special emergency ambulance service fee." The proceeds from the imposition and collection of any special service fee shall be deposited in a special fund and used only to pay reasonable and necessary expenses actually incurred and the cost of buildings and equipment used in providing emergency ambulance service to residents of the county. The proceeds may be used to pay for, in whole or in part, the establishment, maintenance and operation of an authority, as provided for in this article: *Provided,* That an ambulance company or authority receiving funds from the special emergency ambulance fees collected pursuant to this section may not be precluded from making nonemergency transports.

§7-15-18. Article constitutes complete authority; liberal construction; severability.

This article shall constitute full and complete authority for the provision of emergency ambulance service within a county by a county commission and for the creation of any authority and carrying out the powers and duties of any such authority. The provisions of this article shall be liberally construed to accomplish its purpose and no procedure or proceedings, notices, consents or approvals shall be required in connection therewith except as may be prescribed by this article.

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