

# WEST VIRGINIA LEGISLATURE

## 2017 REGULAR SESSION

Introduced

### Senate Bill 351

FISCAL  
NOTE

BY SENATORS SMITH AND CLINE

[Introduced February 20, 2017; Referred  
to the Committee on Government Organization]

1 A BILL to amend and reenact §16-4C-3, §16-4C-4, §16-4C-5 and §16-4C-6 of the Code of West  
 2 Virginia, 1931, as amended; and to amend said code by adding thereto three new  
 3 sections, designated §16-4C-4a, §16-4C-4b and §16-4C-5a, all relating to emergency  
 4 medical services; continuing the Office of Emergency Medical Services as an independent  
 5 office within the Department of Military Affairs and Public Safety; updating definitions;  
 6 creating the positions of executive director, medical director and administrative director for  
 7 the office; establishing and clarifying the powers and duties of the directors; establishing  
 8 the Emergency Medical Services Commission with nine members; and requirements for  
 9 the state medical protocols.

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

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

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

**§16-4C-3. Definitions.**

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

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

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

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

11 ~~(c) "Council" "Commission" means the Emergency Medical Services Advisory Council~~

12 Emergency Medical Services Commission created pursuant to this article;

13 (d) "Director" means the Executive Director of the Office of Emergency Medical Services.  
14 ~~in the Bureau for Public Health~~

15 (e) "Emergency Medical Services" means all services which are set forth in Public Law  
16 93-154 "The Emergency Medical Services Systems Act of 1973" and those included in and made  
17 a part of the emergency medical services plan of the Department of Health and Human Resources  
18 inclusive of, but not limited to, responding to the medical needs of an individual to prevent the loss  
19 of life or aggravation of illness or injury;

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

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

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

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

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

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

36 (l) "~~Municipality~~" ~~has the meaning ascribed to it in subdivision (1), subsection (a), section~~  
37 ~~two, article one, chapter eight of this code~~ "Medical Director" means the licensed physician,

38 appointed by the Emergency Medical Services Commission, in charge of formulating medical  
 39 protocol for emergency medical service personnel within the Office of Emergency Medical  
 40 Services;

41 (m) "Office" means the Office of Emergency Medical Services within the Department of  
 42 Military Affairs and Public Safety;

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

45 (o) "Secretary" means the Secretary of the Department of Military Affairs and Public  
 46 Safety;

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

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

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

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

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

3 (a) The Office of Emergency Medical Services is continued and commencing July 1, 2017,  
 4 as an independent office within the Department of Military Affairs and Public Safety.

5 (b) On or before July 1, 2017, the Secretary of the Department of Military Affairs and Public  
 6 Safety shall appoint an executive director for the Office of Emergency Medical Services. The

7 executive director must be a graduate of an accredited college or university with at least five years  
 8 of administrative experience in a emergency medical services field.

9 (c) On or before September 1, 2017, the executive director shall appoint the following:

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

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

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

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

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

1 (a) The executive director, with the approval of the Emergency Medical Services  
 2 Commission, appoints the medical director. The medical director is a part-time position as set by  
 3 the executive director.

4 (b) The medical director may establish and update state medical protocols for emergency  
 5 medical service agencies and personnel. The medical director shall formulate the state medical  
 6 protocols with the approval of the Emergency Medical Services Commission.

7 (c) Prior to January 1, 2018, the medical director, with the advice of the Emergency  
 8 Medical Services Commission, shall establish the basic state medical protocols that are in concert  
 9 with the national medical standards. These basic state medical protocols become effective on  
 10 January 1, 2016.

11 (d) At least every five years after January 1, 2018, or within six months of a change to  
 12 medical standards at the national level, the medical director, with the approval of the Emergency  
 13 Medical Services Commission, shall update the state medical protocols to adhere to the national  
 14 medical standards for prehospital care.

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

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

3 (b) The administrative director shall:

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

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

8 (3) Investigate emergency medical service agencies and personnel;

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

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

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

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

1 (a) The ~~Emergency Medical Services Advisory Council~~ Emergency Medical Services  
 2 Commission, heretofore created and established by former section seven of this article, is  
 3 continued ~~created~~ for the purpose of developing standards, with the commissioner ~~executive~~  
 4 director, ~~developing~~ standards for emergency medical service personnel and for the purpose of  
 5 providing ~~advice~~ regulation and guidance to the Office of Emergency Medical Services and the  
 6 Commissioner with respect to reviewing and ~~making recommendations~~ providing regulation and

7 guidance for, and providing assistance to, the establishment and maintenance of adequate  
8 emergency medical services for all portions of this state.

9 (b) The council commission shall ~~have the duty to advise~~ oversee the Commissioner  
10 executive director in all matters pertaining to his or her duties and functions in relation to carrying  
11 out the purposes of this article. The commission is comprised of nine members.

12 ~~(b) (c) The Council shall be composed of fifteen members appointed by the Governor by~~  
13 ~~and with the advice and consent of the Senate: The Mountain State Emergency Medical Services~~  
14 ~~Association shall submit to the Governor a list of six names of representatives from its Association~~  
15 ~~and a list of three names shall be submitted to the Governor of representatives of their respective~~  
16 ~~organizations by the county commissioners' Association of West Virginia, the West Virginia State~~  
17 ~~Firemen's Association, the West Virginia Hospital Association, Emergency Medical Services~~  
18 Commission Membership:

19 (1) One person representing the ~~West Virginia Chapter of the American College of~~  
20 ~~Emergency Physicians; , the West Virginia Emergency Medical Services Administrators~~  
21 ~~Association, the West Virginia Emergency Medical Services Coalition, the Ambulance Association~~  
22 ~~of West Virginia and the state Department of Education. The Governor shall appoint from the~~  
23 ~~respective lists submitted two persons who represent the Mountain State Emergency Medical~~  
24 ~~Services Association, one of whom shall be a paramedic and one of whom shall be an emergency~~  
25 ~~medical technician-basic; and one person from the county commissioners' Association of West~~  
26 ~~Virginia, the West Virginia State Firemen's Association, the West Virginia Hospital Association,~~  
27 ~~the West Virginia Chapter of the American College of Emergency Physicians, the West Virginia~~  
28 ~~Emergency Medical Services Administrators Association, the West Virginia Emergency Medical~~  
29 ~~Services Coalition, the Ambulance Association of West Virginia and the state Department of~~  
30 ~~Education. In addition, the Governor shall appoint one person to represent emergency medical~~  
31 ~~service providers operating within the state, one person to represent small emergency medical~~  
32 ~~service providers operating within this state and three persons to represent the general public.~~

33 that is a certified Emergency Medical Technician and a member of an emergency medical  
 34 services field group or association operating in the State of West Virginia;

35 (2) One person that is a certified paramedic and a member of an emergency medical  
 36 services field group or association operating in the State of West Virginia;

37 (3) One person that is a member of a legal entity or group operating in the State of West  
 38 Virginia representing EMS Administrators;

39 (4) One person that is a member of a legal entity operating in the State of West Virginia  
 40 representing formal ambulance associations;

41 (5) One person that is a member of a legal entity operating in the State of West Virginia  
 42 representing formal EMS coalitions or groups;

43 (6) One person representing a licensed EMS Training Institute;

44 (7) One person representing the West Virginia Chapter of the American College of  
 45 Emergency Physicians;

46 (8) One person representing the Hospital Association; and

47 (9) One citizen of West Virginia who is not licensed or certified under the provisions of this  
 48 article.

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

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

53 (e) The ~~council~~ commission shall annually choose its own ~~chairman~~ chairperson, and ~~meet~~  
 54 at the call of the Commissioner at least twice a year.

55 (f) The commission shall meet quarterly and any other meetings may be held at the call of  
 56 the executive director. The meetings may be held in person or by electronic means.

57 (f)(g) The members of the ~~council~~ commission shall receive ~~compensation and expense~~  
 58 reimbursement in an amount not to exceed the same ~~compensation and expense reimbursement~~

59 as is paid to members of the Legislature for their interim duties as recommended by the Citizens  
 60 Legislative Compensation Commission. ~~and authorized by law for each day or substantial portion~~  
 61 ~~thereof engaged in the performance of official duties.~~

62 (h) The Governor may remove a commission member for neglect of duty, incompetence  
 63 or official misconduct.

64 (i) A majority of the commission members, regardless of any vacancy, constitutes a  
 65 quorum.

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

1 The Emergency Medical Services Commission shall:

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

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

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

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

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

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

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

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

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

- 10           ~~(A)~~ (i) Age, training, testing and continuing education;
- 11           ~~(B)~~ (ii) Procedures for certification and recertification, ~~and~~ including procedures and
- 12 timelines for incomplete applications;
- 13           (iii) Procedures for denying, suspending, revoking, reinstating and limiting a certification
- 14 or recertification;
- 15           ~~(C)~~ (iv) Levels of certification and the scopes of practice ~~for each level~~ and ~~(D)~~ the
- 16 standards of conduct for each level; ~~and~~
- 17           (v) The fee schedule for certification and recertification; and
- 18           ~~(E)~~ (vi) Causes for disciplinary action and the sanctions which may be imposed.
- 19           ~~(2)~~ (B) Standards and requirements for ~~licensure and licensure renewals~~ license and
- 20 renewal of license of emergency medical service agencies, including:
- 21           ~~(A)~~ (i) Operational standards, levels of service, personnel qualifications and training,
- 22 communications, public access, records management, reporting requirements, medical direction,
- 23 quality assurance and review, and other requirements necessary for safe and efficient operation;
- 24           ~~(B)~~ (ii) Inspection standards and establishment of improvement periods to ensure
- 25 maintenance of the standards;
- 26           ~~(C)~~ (iii) The fee schedule for ~~licensure~~ licenses, renewal of ~~licensure~~ licenses and other
- 27 necessary costs;
- 28           ~~(D)~~ (iv) Procedures for denying, suspending, revoking, reinstating or limiting ~~an agency~~
- 29 ~~licensure~~ a license;
- 30           ~~(E)~~ (v) Causes for disciplinary action against agencies; and
- 31           ~~(F)~~ (vi) Administrative penalties, fines and other disciplinary sanctions which may be
- 32 imposed on agencies;
- 33           ~~(3)~~ (C) Standards and requirements for emergency medical service vehicles, including
- 34 classifications and specifications;
- 35           ~~(4)~~ (D) Standards and requirements for training institutions; ~~including approval of~~

36 ~~accreditation of sponsors of continuing education, course curricula and personnel;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

87           ~~(m) (12) To~~ Review, make recommendations for and assist in all projects and programs

88 that provide for emergency medical services whether or not the projects or programs are funded  
89 through the Office of Emergency Medical Services. A review and ~~approval~~ advice shall be  
90 required for all emergency medical services projects, programs or services for which application  
91 is made to receive state or federal funds for their operation. ~~after the effective date of this act~~; and  
92 ~~(n)~~ (13) ~~To~~ Take all necessary and appropriate action to encourage and foster the  
93 cooperation of all emergency medical service providers, agencies, personnel and facilities within  
94 this state.

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

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