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HOUSE BILL NO. 1243

Offered January 24, 2000

A BILL to amend and reenact §§ 32.1-111.3 and 32.1-111.10 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 4 of Title 32.1 an article numbered 2.3, consisting of sections numbered 32.1-111.17, 32.1-111.18, and 32.1-111.19, relating to the Virginia Medivac Authority.

 Patron—Orrock

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-111.3 and 32.1-111.10 of the Code of Virginia are amended and reenacted and the Code of Virginia is amended by adding in Chapter 4 of Title 32.1 an article numbered 2.3, consisting of sections numbered 32.1-111.17, 32.1-111.18, and 32.1-111.19, as follows:

§ 32.1-111.3. Statewide emergency medical care system.

A. The Board of Health shall develop a comprehensive, coordinated, emergency medical care system in the Commonwealth and prepare a Statewide Emergency Medical Services Plan which shall incorporate, but not be limited to, the plans prepared by the regional emergency medical services councils. The Board shall review the Plan triennially and make such revisions as may be necessary. The objectives of such Plan and the system shall include, but not be limited to, the following:

1. Establishing a comprehensive statewide emergency medical care system, incorporating facilities, transportation, manpower, communications, and other components as integral parts of a unified system that will serve to improve the delivery of emergency medical services and thereby decrease morbidity, hospitalization, disability, and mortality;

2. Reducing the time period between the identification of an acutely ill or injured patient and the definitive treatment;

3. Increasing the accessibility of high quality emergency medical services to all citizens of Virginia;

4. Promoting continuing improvement in system components including ground, water and air transportation, communications, hospital emergency departments and other emergency medical care facilities, consumer health information and education, and health manpower and manpower training;

5. Improving the quality of emergency medical care delivered on site, in transit, in hospital emergency departments and within the hospital environment;

6. Working with medical societies, hospitals, and other public and private agencies in developing approaches whereby the many persons who are presently using the existing emergency department for routine, nonurgent, primary medical care will be served more appropriately and economically;

7. Conducting, promoting, and encouraging programs of education and training designed to upgrade the knowledge and skills of health manpower involved in emergency medical services;

8. Consulting with and reviewing, with agencies and organizations, the development of applications to governmental or other sources for grants or other funding to support emergency medical services programs;

9. Establishing a statewide air medical evacuation system *to be implemented through the Virginia Medivac Authority, established in Article 2.3 (§ 32.1-111.17 et seq.) of this chapter*, which shall be developed by the Department of Health in coordination with the Department of State Police and other appropriate ~~state~~ *public and private* agencies;

10. Establishing and maintaining a process for designation of appropriate hospitals as trauma centers and specialty care centers based on an applicable national evaluation system;

11. Establishing a comprehensive emergency medical services patient care data collection and evaluation system pursuant to Article 3.1 (§ 32.1-116.1 et seq.) of this chapter;

12. Collecting data and information and preparing reports for the sole purpose of the designation and verification of trauma centers and other specialty care centers pursuant to this section. All data and information collected shall remain confidential and shall be exempt from the provisions of the Virginia Freedom of Information Act (§ 2.1-340 et seq.); and

13. Establishing a registration program for automated external defibrillators, pursuant to § 32.1-111.14:1.

B. The Board of Health shall also develop and maintain as a component of the Emergency Medical Services Plan a statewide prehospital and interhospital Trauma Triage Plan designed to promote rapid access for pediatric and adult trauma patients to appropriate, organized trauma care through the publication and regular updating of information on resources for trauma care and generally accepted criteria for trauma triage and appropriate transfer. The Trauma Triage Plan shall include:

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1. A strategy for implementing the statewide Trauma Triage Plan through formal regional trauma triage plans developed by the regional emergency medical services councils which can incorporate each region's geographic variations and trauma care capabilities and resources, including hospitals designated as trauma centers pursuant to subsection A of this section. The regional trauma triage plans shall be implemented by July 1, 1999, upon the approval of the Commissioner.

2. A uniform set of proposed criteria for prehospital and interhospital triage and transport of trauma patients, consistent with the trauma protocols of the American College of Surgeons' Committee on Trauma, developed by the Emergency Medical Services Advisory Board, in consultation with the Virginia Chapter of the American College of Surgeons, the Virginia College of Emergency Physicians, the Virginia Hospital and Healthcare Association, and prehospital care providers. The Emergency Medical Services Advisory Board may revise such criteria from time to time to incorporate accepted changes in medical practice or to respond to needs indicated by analyses of data on patient outcomes. Such criteria shall be used as a guide and resource for health care providers and are not intended to establish, in and of themselves, standards of care or to abrogate the requirements of § 8.01-581.20. A decision by a health care provider to deviate from the criteria shall not constitute negligence per se.

3. A program for monitoring the quality of care, consistent with other components of the Emergency Medical Services Plan. The program shall provide for collection and analysis of data on emergency medical and trauma services from existing validated sources, including but not limited to the emergency medical services patient care information system, pursuant to Article 3.1 (§ 32.1-116.1 et seq.) of this chapter, the Patient Level Data System, and mortality data. The Emergency Medical Services Advisory Board shall review and analyze such data on a quarterly basis and report its findings to the Commissioner. The first such report shall be for the quarter beginning on July 1, 1999. The Advisory Board may execute these duties through a committee composed of persons having expertise in critical care issues and representatives of emergency medical services providers. The program for monitoring and reporting the results of emergency medical and trauma services data analysis shall be the sole means of encouraging and promoting compliance with the trauma triage criteria.

The Commissioner shall report aggregate findings of the analysis annually to each regional emergency medical services council, with the first such report representing data submitted for the quarter beginning July 1, 1999, through the quarter ending June 30, 2000. The report shall be available to the public and shall identify, minimally, as defined in the statewide plan, the frequency of (i) incorrect triage in comparison to the total number of trauma patients delivered to a hospital prior to pronouncement of death and (ii) incorrect interfacility transfer for each region. The Advisory Board shall ensure that each hospital or emergency medical services director is informed of any incorrect interfacility transfer or triage, as defined in the statewide plan, specific to the provider and shall give the provider an opportunity to correct any facts on which such determination is based, if the provider asserts that such facts are inaccurate. The findings of the report shall be used to improve the Trauma Triage Plan, including triage, and transport and trauma center designation criteria. The Commissioner shall ensure the confidentiality of patient information, in accordance with § 32.1-116.2. Such data or information in the possession of or transmitted to the Commissioner, the Advisory Board, or any committee acting on behalf of the Advisory Board, any hospital or prehospital care provider, or any other person shall be privileged and shall not be disclosed or obtained by legal discovery proceedings, unless a circuit court, after a hearing and for good cause shown arising from extraordinary circumstances, orders disclosure of such data.

C. Whenever any state-owned aircraft, vehicle, or other form of conveyance is utilized under the provisions of this section, an appropriate amount not to exceed the actual costs of operation may be charged by the agency having administrative control of such aircraft, vehicle or other form of conveyance.

§ 32.1-111.10. State Emergency Medical Services Advisory Board; purpose; membership; duties.

A. For the purpose of advising the State Board of Health concerning the administration of the statewide emergency medical care system and emergency medical services vehicles maintained and operated to provide transportation to persons requiring emergency medical treatment, and reviewing and making recommendations on the Statewide Emergency Medical Services Plan, there is hereby created the State Emergency Medical Services Advisory Board, which shall be composed of twenty-four members. The membership of the Advisory Board shall be appointed by the Governor and shall include one representative of each of the following groups: Virginia Municipal League, Virginia Association of Counties, Medical Society of Virginia, Virginia Chapter of the American College of Emergency Physicians, Virginia Chapter of the American College of Surgeons, Virginia Chapter of the American Academy of Pediatrics, one member of either the Emergency Nurses Association or the Virginia Nurses' Association, Virginia Hospital Association, Virginia State Firefighters Association, State Fire Chiefs Association of Virginia, Virginia Ambulance Association, Virginia Association of Governmental Emergency Medical Services Administrators, and Virginia Association of Public Safety Communications Officials; a consumer who shall not be involved in or affiliated with emergency medical services in any

capacity; one representative from each of the eight regional emergency medical services councils; and two members of the Virginia Association of Volunteer Rescue Squads, Inc. Appointments may be made, at the discretion of the Governor, from lists of three nominees submitted by such organizations and groups, where applicable. To ensure diversity in representation, the Governor may request additional nominees from the applicable organizations and groups. In no case shall the Governor be bound to make any appointment from among any list of nominees. Each regional emergency medical services advisory council shall submit three nominations, at least one of which shall be a representative of providers of prehospital care. Each member shall be designated as serving as the representative of one of the aforementioned groups.

B. Members serving on the State Emergency Medical Services Advisory Board on January 1, 1996, shall complete their current terms of office. Thereafter, appointments shall be made to accomplish the restructuring of the Advisory Board according to the membership in effect on July 1, 1996, and shall be for terms of three years or the unexpired portions thereof in a manner to preserve insofar as possible the representation of the specified groups. No member shall serve more than two successive terms. Effective July 1, 1997, no individual representing any one or more of the groups named in subsection A who has served as a member of the State Emergency Medical Services Advisory Board for two or more successive terms for any period or for six or more consecutive years shall be nominated for appointment or appointed to the Advisory Board unless at least three consecutive years have elapsed since such individual has served on the Advisory Board.

The chairman shall be elected from the membership of the Advisory Board for a term of one year and shall be eligible for reelection. The Advisory Board shall meet at least four times annually at the call of the chairman or the Commissioner.

C. The State Emergency Medical Services Advisory Board shall:

1. Advise the State Board of Health on the administration of this article;
2. Review and make recommendations for the Statewide Emergency Medical Services Plan and any revisions thereto;

3. Review the annual financial report of the Virginia Association of Volunteer Rescue Squads, as required by § 32.1-111.13;

4. Review, on a schedule as it may determine, reports on the status of all aspects of the statewide emergency medical care system, including the Financial Assistance and Review Committee, the Rescue Squad Assistance Fund, the regional emergency medical services councils, the Virginia Medivac Authority, and the emergency medical services vehicles, submitted by the State Office of Emergency Medical Services; and

5. Advise the Board on the requirements for the registration and training for the use of automated external defibrillators pursuant to § 32.1-111.14:1; and

6. Assist the Board in implementing the Virginia Medivac Authority by, among other things, designing the services and defining the participants and the terms of such participation.

Article 2.3.

Virginia Medivac Authority.

§ 32.1-111.17. Definitions.

As used in this article:

"Advisory Board" means the State Emergency Medical Services Advisory Board established in § 32.1-111.10.

"Authority" means the Virginia Medivac Authority, a nonprofit corporation having a governing board that predominantly consists of participants in Virginia's medivac service.

"Board" means the Board of Health.

"Medivac" means a helicopter equipped for emergency medical services of the sick or injured, particularly in instances of multiple trauma, while such persons are being evacuated to a hospital.

"Participants" means a public or private medivac service operating in Virginia on January 1, 2000.

§ 32.1-111.18. Authority created.

The Board of Health may organize the Virginia Medivac Authority, hereinafter called "the Authority," to ensure that all regions of the Commonwealth are covered by appropriate medivac services. Prior to organizing the Authority, the Board shall hold at least two public hearings and obtain input from the State Emergency Medical Services Advisory Board. After obtaining public comment and the input of the Advisory Board, the Board shall promulgate regulations for the establishment and organization of the Authority. The Board's regulations may provide for a contract with a nonprofit corporation, as defined in § 32.1-111.17.

The Board's regulations shall provide for a fifteen member governing organization for the Authority and shall establish the membership to consist predominantly of participants in the medivac system.

A majority of the members of the Authority's governing organization shall constitute a quorum and an affirmative vote of a majority of its members shall be necessary for any decision or action. No

183 vacancy in the membership of the governing organization shall impair the right of a quorum to exercise
184 all the rights and perform all of the duties of the Authority. The members of the governing organization
185 shall serve without compensation, but may be reimbursed for the actual expenses incurred in the
186 performance of their duties, as appropriate under state law and with such funds as may be available.

187 § 32.1-111.19. Powers of the Authority.

188 A. The Authority shall be deemed to be a public instrumentality exercising public and essential
189 governmental functions to provide for public health, safety and welfare. The Authority shall:

190 1. Ensure that all regions of the Commonwealth have access to medivac services and that the
191 medivac system is financially viable and well organized;

192 2. Adopt bylaws for the regulation of its affairs and the conduct of its business;

193 3. Adopt an official seal as it deems necessary;

194 4. Maintain an office or offices;

195 5. Sue and be sued in its own name;

196 6. Purchase, lease, equip, maintain, repair, and operate helicopters, emergency equipment, and
197 supplies in order to provide evacuation services to seriously sick and injured persons upon such terms
198 and conditions as it may deem advisable to carry out the provisions of this article;

199 7. Set and revise as necessary and charge and collect rates, rentals, fees, and other charges for the
200 services and transportation furnished by the Authority and its participants;

201 8. Acquire in the name of the Authority by gift, or lease-purchase, any helicopters, equipment, and
202 supplies, and acquire such other personal property as it may deem necessary in connection with the
203 performance of its functions;

204 9. Enter into all contracts and agreements necessary or incidental to the performance of its duties
205 and the execution of its powers under this article;

206 10. Employ such financial experts, accountants and attorneys and such employees and agents as
207 may, in the judgment of the Authority, be deemed necessary, and fix such persons' compensation; and

208 11. Do such other official acts to carry out the powers granted by this article.

209 The powers conferred by this section shall only be executed with the funds made available to the
210 Authority through the appropriation act or other source.

211 B. The rates, rentals, fees, and other charges for the services and transportation furnished by the
212 Authority and its participants, which may be established pursuant to this section, shall not be subject to
213 the supervision or regulation of any state, local or private agencies; however, such charges shall, at all
214 times, be set to be sufficient to pay the cost of maintaining, repairing, and operating the medivac
215 system.

216 **2. That the Board of Health shall promulgate regulations to implement this act within 280 days of**
217 **its enactment.**