

# VIRGINIA ACTS OF ASSEMBLY -- 1996 SESSION

## CHAPTER 899

*An Act to amend and reenact § 8.01-225 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 4 of Title 32.1 an article numbered 3.01, consisting of sections numbered 32.1-111.1 through 32.1-111.15; and to repeal Article 3 (§§ 32.1-112 through 32.1-116.01) of Chapter 4 of Title 32.1 and Article 5 (§§ 32.1-148 through 32.1-156) of Chapter 5 of Title 32.1, relating to the Statewide Emergency Medical Care System and Services.*

[H 902]

Approved April 10, 1996

**Be it enacted by the General Assembly of Virginia:**

**1. That § 8.01-225 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 4 of Title 32.1 an article numbered 3.01, consisting of sections numbered 32.1-111.1 through 32.1-111.15, as follows:**

§ 8.01-225. Persons rendering emergency care, obstetrical services exempt from liability.

A. Any person who, in good faith, renders emergency care or assistance, without compensation, to any ill or injured person at the scene of an accident, fire, or any life-threatening emergency, or en route therefrom to any hospital, medical clinic or doctor's office, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such care or assistance.

Any person who, in the absence of gross negligence, renders emergency obstetrical care or assistance to a female in active labor who has not previously been cared for in connection with the pregnancy by such person or by another professionally associated with such person and whose medical records are not reasonably available to such person shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care or assistance. The immunity herein granted shall apply only to the emergency medical care provided.

Any person who, in good faith and without compensation, administers epinephrine to an individual for whom an insect sting treatment kit has been prescribed shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if he has reason to believe that the individual receiving the injection is suffering or is about to suffer a life-threatening anaphylactic reaction.

Any person who provides assistance upon request of any police agency, fire department, rescue or emergency squad, or any governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission or storage of liquefied petroleum gas, liquefied natural gas, hazardous material or hazardous waste as defined in § 18.2-278.1 or regulations of the Virginia Waste Management Board shall not be liable for any civil damages resulting from any act of commission or omission on his part in the course of his rendering such assistance in good faith.

Any emergency medical care attendant or technician possessing a valid certificate issued by authority of the State Board of Health who in good faith renders emergency care or assistance whether in person or by telephone or other means of communication, without compensation, to any injured or ill person, whether at the scene of an accident, fire or any other place, or while transporting such injured or ill person to, from or between any hospital, medical facility, medical clinic, doctor's office or other similar or related medical facility, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment or assistance, including but in no way limited to acts or omissions which involve violations of State Department of Health regulations or any other state regulations in the rendering of such emergency care or assistance.

Any person having attended and successfully completed a course in cardiopulmonary resuscitation, which has been approved by the State Board of Health, who in good faith and without compensation renders or administers emergency cardiopulmonary resuscitation, cardiac defibrillation or other emergency life-sustaining or resuscitative treatments or procedures which have been approved by the State Board of Health to any sick or injured person, whether at the scene of a fire, an accident or any other place, or while transporting such person to or from any hospital, clinic, doctor's office or other medical facility, shall be deemed qualified to administer such emergency treatments and procedures; and such individual shall not be liable for acts or omissions resulting from the rendering of such emergency resuscitative treatments or procedures.

B. Any licensed physician serving without compensation as the operational medical director for a licensed emergency medical services agency in this Commonwealth shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency medical services in good faith by the personnel of such licensed agency unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any person serving without compensation as a dispatcher for any licensed public or nonprofit

emergency services agency in this Commonwealth shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency services in good faith by the personnel of such licensed agency unless such act or omission was the result of such dispatcher's gross negligence or willful misconduct.

*Any individual, certified by the State Office of Emergency Medical Services as an emergency medical services instructor and pursuant to a written agreement with such office, who in good faith and in the performance of his duties, provides instruction to persons for certification or recertification as a certified basic life support or advanced life support emergency medical services technician, shall not be liable for any civil damages for acts or omissions on his part directly relating to his activities on behalf of such office unless such act or omission was the result of such emergency medical services instructor's gross negligence or willful misconduct.*

C. Nothing contained in this section shall be construed to provide immunity from liability arising out of the operation of a motor vehicle.

For the purposes of this section, the term "compensation" shall not be construed to include (i) the salaries of police, fire or other public officials or personnel who render such emergency assistance, nor (ii) the salaries or wages of employees of a coal producer engaging in emergency medical technician service or first aid service pursuant to the provisions of §§ 45.1-161.38, 45.1-161.101, 45.1-161.199 or § 45.1-161.263.

Any licensed physician who directs the provision of emergency medical services, as authorized by the State Board of Health, through a communications device shall not be liable for any civil damages for any act or omission resulting from the rendering of such emergency medical services unless such act or omission was the result of such physician's gross negligence or willful misconduct.

For the purposes of this section, an emergency medical care attendant or technician shall be deemed to include a person licensed or certified as such or its equivalent by any other state when he is performing services which he is licensed or certified to perform by such other state in caring for a patient in transit in this Commonwealth, which care originated in such other state.

Any volunteer engaging in rescue or recovery work at a mine or any mine operator voluntarily providing personnel to engage in rescue or recovery work at a mine not owned or operated by such operator, shall not be liable for civil damages for acts or omissions resulting from the rendering of such rescue or recovery work in good faith unless such act or omission was the result of gross negligence or willful misconduct.

### *Article 3.01.*

#### *Statewide Emergency Medical Services System and Services.*

##### *§ 32.1-111.1. Definitions.*

*As used in this article:*

*"Advisory Board" means the State Emergency Medical Services Advisory Board.*

*"Agency" means any person engaged in the business, service or regular activity, whether or not for profit, of transporting persons who are sick, injured, wounded or otherwise incapacitated or helpless, or of rendering immediate medical care to such persons.*

*"Emergency medical services personnel" means persons responsible for the direct provision of emergency medical services in a given medical emergency including all persons who could be described as attendants, attendants-in-charge, or operators.*

*"Emergency medical services vehicle" means any privately or publicly owned vehicle, vessel or aircraft that is specially designed, constructed, or modified and equipped and is intended to be used for and is maintained or operated to provide immediate medical care to or to transport persons who are sick, injured, wounded or otherwise incapacitated or helpless.*

##### *§ 32.1-111.2. Exemptions from provisions of this article.*

*The following are exempted from the provisions of this article:*

*1. Emergency medical service agencies based outside this Commonwealth, except that any such agency receiving a person who is sick, injured, wounded, incapacitated or helpless within this Commonwealth for transportation to a location within this Commonwealth shall comply with the provisions of this article; and*

*2. Emergency medical service agencies operated by the United States government.*

##### *§ 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. Establish 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. Reduce the time period between the identification of an acutely ill or injured patient and the*

*definitive treatment;*

3. *Increase the accessibility of high quality emergency medical services to all citizens of Virginia;*
4. *Promote 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. *Improve the quality of emergency medical care delivered on site, in transit, in hospital emergency departments and within the hospital environment;*
6. *Work 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. *Conduct, promote, and encourage programs of education and training designed to upgrade the knowledge and skills of health manpower involved in emergency medical services;*
8. *Consult with and review, 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. *Establish a statewide air medical evacuation system which shall be developed by the Department of Health in coordination with the Department of State Police and other appropriate state agencies;*
10. *Establish and maintain a process for designation of appropriate hospitals as trauma centers and specialty care centers based on an applicable national evaluation system;*
11. *Establish 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; and*
12. *Collect data and information and prepare 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.).*

*B. 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.*

*§ 32.1-111.4. Regulations; emergency medical services personnel and vehicles.*

*A. The State Board of Health shall prescribe by regulation:*

1. *Requirements for record keeping, supplies, operating procedures and other agency operations;*
2. *Requirements for the sanitation and maintenance of emergency medical services vehicles and their medical supplies and equipment;*
3. *Procedures, including the requirements for forms, to authorize qualified emergency medical services personnel to follow Emergency Medical Services Do Not Resuscitate Orders pursuant to § 54.1-2987.1;*
4. *Requirements for the composition, administration, duties and responsibilities of the State Emergency Medical Services Advisory Board;*
5. *Requirements, developed in consultation with the Emergency Medical Services Advisory Board, governing the recertification of emergency medical services personnel which shall include (i) authorization, in lieu of a written examination, for continuing education, skills testing, and exemptions from the written examination for the recertification by the relevant operational medical director; (ii) approval by the Office of Emergency Medical Services of continuing education modules in which each module shall be tested separately; (iii) authorization of the relevant operational medical director to require the written examinations provided by the Office of Emergency Medical Services, as deemed necessary, of certain emergency medical services personnel; (iv) triennial recertification of advanced life support providers; and (v) effective on January 1, 1998, a sequential option for the completion of the skills tests for recertification; and*
6. *Requirements for written notification to the State Emergency Medical Services Advisory Board, the State Office of Emergency Medical Services, and the Financial Assistance and Review Committee of the Board's action, and the reasons therefor, on requests and recommendations of the Advisory Board, the State Office of Emergency Medical Services or the Committee, no later than five workdays after reaching its decision, specifying whether the Board has approved, denied, or not acted on such requests and recommendations.*

*B. The Board shall classify agencies and emergency medical services vehicles by type of service rendered and shall specify the medical equipment, the supplies, the vehicle specifications and the personnel required for each classification.*

*C. In formulating its regulations, the Board shall consider the current Minimal Equipment List for Ambulances adopted by the Committee on Trauma of the American College of Surgeons.*

*§ 32.1-111.5. Certification of emergency medical services personnel.*

*A. The Board shall prescribe by regulation the qualifications required for certification of emergency medical care attendants, including those qualifications necessary for authorization to follow Emergency Medical Services Do Not Resuscitate Orders pursuant to § 54.1-2987.1.*

B. Each person desiring certification as emergency medical services personnel shall apply to the Commissioner upon a form prescribed by the Board. Upon receipt of such application, the Commissioner shall cause the applicant to be examined or otherwise determined to be qualified for certification. If the Commissioner determines that the applicant meets the requirements of such regulations, he shall issue a certificate to the applicant. An emergency medical services personnel certificate so issued shall be valid for a period required by law or prescribed by the Board. The certificates may be renewed after successful reexamination of the holder. Any certificate so issued may be suspended at any time that the Commissioner determines that the holder no longer meets the qualifications prescribed for such emergency medical services personnel.

C. The Commissioner may issue a temporary certificate when he finds that it is in the public interest. A temporary certificate shall be valid for a period not exceeding ninety days.

§ 32.1-111.6. Permits; agency; emergency medical services vehicles.

A. No person shall operate, conduct, maintain or profess to be an agency without a valid permit issued by the Commissioner for such agency and for each emergency medical services vehicle used by such agency.

B. The Commissioner shall issue an original or renewal permit for an agency or emergency medical services vehicle which meets all requirements set forth in this article and in the regulations of the Board, upon application, on forms and according to procedures established by the Board. Permits shall be valid for a period specified by the Board, not to exceed two years.

C. The Commissioner may issue temporary permits for agencies or emergency medical services vehicles not meeting required standards, valid for a period not to exceed sixty days, when the public interest will be served thereby.

D. The issuance of a permit hereunder shall not be construed to authorize any agency to operate any emergency medical services vehicle without a franchise or permit in any county or municipality which has enacted an ordinance pursuant to § 32.1-111.14 making it unlawful to do so.

§ 32.1-111.7. Inspections.

Each agency and each emergency medical services vehicle for which a permit has been issued shall be inspected as often as the Commissioner deems necessary and a record thereof shall be maintained. Each such agency or vehicle, its medical supplies and equipment, and the records of its maintenance and operation shall be available at all reasonable times for inspection.

§ 32.1-111.8. Revocation and suspension of permits.

Whenever an agency or an emergency medical services vehicle owned or operated by an agency is in violation of any provision of this article or any applicable regulation, the Commissioner shall have power to revoke or suspend such agency's permit and the permits of all emergency medical services vehicles owned or operated by the agency.

§ 32.1-111.9. Applications for variances or exemptions.

Prior to the submission to the Commissioner of Health by a volunteer rescue squad of an application for a variance, or to the Board of Health for an exemption from any regulations promulgated pursuant to this chapter, the application shall be reviewed by the governing body of the jurisdiction in which the principal office of the volunteer rescue squad is located. The recommendation of the governing body regarding the variance or exemption shall be submitted with the application; and, absent compelling reasons to the contrary, the Commissioner or Board, whichever is appropriate, shall adopt that recommendation for the purposes of granting or denying the variance or exemption.

The applicant shall have the right to appeal any denial by the Commissioner or Board of an application for a variance or exemption pursuant to the Administrative Process Act (§ 9-6.14:1 et seq.).

§ 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 from lists of nominees submitted by such organizations and groups, where applicable. 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.

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. 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; and
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, and the emergency medical services vehicles, submitted by the State Office of Emergency Medical Services.

§ 32.1-111.11. Regional emergency medical services councils.

The Board shall designate regional emergency medical services councils which shall be authorized to receive and disburse public funds. Each council shall be charged with the development and implementation of an efficient and effective regional emergency medical services delivery system.

The Board shall review those agencies that were the designated regional emergency medical services councils. The Board shall, in accordance with the standards established in its regulations, review and may renew or deny applications for such designations every three years. In its discretion, the Board may establish conditions for renewal of such designations or may solicit applications for designation as a regional emergency medical services council.

Each council shall include, if available, representatives of the participating local governments, fire protection agencies, law-enforcement agencies, emergency medical services agencies, hospitals, licensed practicing physicians, emergency care nurses, mental health professionals, emergency medical technicians and other appropriate allied health professionals.

Each council shall adopt and revise as necessary a regional emergency medical services plan in cooperation with the Board.

The designated councils shall be required to match state funds with local funds obtained from private or public sources in the proportion specified in the regulations of the Board. Moneys received directly or indirectly from the Commonwealth shall not be used as matching funds. A local governing body may choose to appropriate funds for the purpose of providing matching grant funds for any council. However, this section shall not be construed to place any obligation on any local governing body to appropriate funds to any council.

The Board shall promulgate, in cooperation with the State Emergency Medical Services Advisory Board, regulations to implement this section, which shall include, but not be limited to, requirements to ensure accountability for public funds, criteria for matching funds, and performance standards.

§ 32.1-111.12. Virginia Rescue Squads Assistance Fund; disbursements.

A. For the purpose of providing financial assistance to rescue squads and other emergency medical services organizations in the Commonwealth, of providing the requisite training for emergency medical service personnel, and of purchasing equipment needed by such rescue squads and organizations, there is hereby created in the Department of the Treasury a special nonreverting fund which shall be known as the Virginia Rescue Squads Assistance Fund. The Fund shall be established on the books of the Comptroller, and any moneys remaining in such Fund at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Interest earned on such moneys shall remain in the Fund and be credited to it. The Fund shall consist of any moneys appropriated for this purpose by the General Assembly and any other moneys received for such purpose by the Board. On and after July 1, 1996, any such moneys unexpended at the end of a fiscal biennium shall remain in the Fund and shall not revert to the general fund.

B. In accordance with regulations of the Board, the Commissioner shall disburse and expend the moneys in the Virginia Rescue Squads Assistance Fund. No moneys shall be disbursed directly to any rescue squad or other emergency medical services organization unless such squad or organization operates on a nonprofit basis exclusively for the benefit of the general public.

§ 32.1-111.13. Annual financial reports.

Effective on July 1, 1996, the Virginia Association of Volunteer Rescue Squads shall submit an annual financial report on the use of its funds to the State Emergency Medical Services Advisory Board on such forms and providing such information as may be required by the Advisory Board for such purpose.

*§ 32.1-111.14. Powers of governing bodies of counties, cities and towns.*

*A. Upon finding as fact, after notice and public hearing, that exercise of the powers enumerated below is necessary to assure the provision of adequate and continuing emergency services and to preserve, protect and promote the public health, safety and general welfare, the governing body of any county or city is empowered to:*

*1. Enact an ordinance making it unlawful to operate emergency medical services vehicles or any class thereof established by the Board in such county or city without having been granted a franchise or permit to do so;*

*2. Grant franchises or permits to agencies based within or outside the county or city; however, any agency in operation in any county or city on June 28, 1968, that continues to operate as such, up to and including the effective date of any ordinance adopted pursuant to this section, and that submits to the governing body of the county or city satisfactory evidence of such continuing operation, shall be granted a franchise or permit by such governing body to serve at least that part of the county or city in which the agency has continuously operated if all other requirements of this article are met;*

*3. Limit the number of emergency medical services vehicles to be operated within the county or city and by any agency;*

*4. Determine and prescribe areas of franchised or permitted service within the county or city;*

*5. Fix and change from time to time reasonable charges for franchised or permitted services;*

*6. Set minimum limits of liability insurance coverage for emergency medical services vehicles;*

*7. Contract with franchised or permitted agencies for transportation to be rendered upon call of a county or municipal agency or department and for transportation of bona fide indigents or persons certified by the local board of public welfare or social services to be public assistance recipients; and*

*8. Establish other necessary regulations consistent with statutes or regulations of the Board relating to operation of emergency medical services vehicles.*

*B. In addition to the powers set forth above, the governing body of any county or city is authorized to provide, or cause to be provided, services of emergency medical services vehicles; to own, operate and maintain emergency medical services vehicles; to make reasonable charges for use of emergency medical services vehicles; and to contract with any agency for the services of its emergency medical services vehicles.*

*C. Any incorporated town may exercise, within its corporate limits only, all those powers enumerated in subsections A and B of this section either upon the request of a town to the governing body of the county wherein the town lies and upon the adoption by the county governing body of a resolution permitting such exercise, or after 180 days' written notice to the governing body of the county if the county is not exercising such powers at the end of such 180-day period.*

*D. No county ordinance enacted, or other county action taken, pursuant to powers granted herein shall be effective within an incorporated town in such county which is at the time exercising such powers until 180 days after written notice to the governing body of the town.*

*E. Nothing herein shall be construed to authorize any county to regulate in any manner emergency medical services vehicles owned and operated by a town or to authorize any town to regulate in any manner emergency medical services vehicles owned and operated by a county.*

*F. Any emergency medical services vehicles operated by a county, city or town under authority of this section shall be subject to the provisions of this article and to the regulations of the Board adopted thereunder.*

*§ 32.1-111.15. Statewide poison control system established.*

*From such funds as may be appropriated for this purpose and from such gifts, donations, grants, bequests, and other funds as may be received, the Board of Health shall establish a statewide poison control system. The funding mechanism for the system and its services shall be as provided in the appropriation act.*

*The Board shall establish poison control centers that meet national certification standards promulgated by the American Association of Poison Control Centers. If such national certification standards are eliminated, the Board shall establish minimum standards for the designation and operation of these poison control centers. The poison control centers established by the Board shall report to the Board by October 1 of each year regarding program operations; expenditures; revenues, including in-kind contributions; financial status; future needs; and summaries of human poison exposure cases for the most recent calendar year.*

*The statewide system shall provide, at a minimum, (i) consultation, by free, 24-hour emergency telephone or other means of communication, to the public and to health care practitioners regarding the ingestion or application of substances, including determinations of emergency treatment, coordination of referrals to emergency treatment facilities, and provision of appropriate information to the staffs of such facilities; (ii) prevention education and information about poison control services; (iii) training for health care practitioners in toxicology and medical management of poison exposure cases; and (iv) poison control surveillance through the collection and analysis of data from reported poison exposures to identify poisoning hazards, prevent poisonings, and improve treatment of poisoned patients.*

**2. That Article 3 (§§ 32.1-112 through 32.1-116.01) of Chapter 4 of Title 32.1 and Article 5**

(§§ 32.1-148 through 32.1-156) of Chapter 5 of Title 32.1 of the Code of Virginia are repealed.

3. That notwithstanding the provisions of § 32.1-114 to the contrary, reappointments or eliminations of representation on the State Emergency Medical Services Advisory Board for those members serving on January 1, 1996, whose terms of office expire before July 1, 1996, shall be made according to the provisions of this act.