

INTERIM STUDY PROPOSAL 2023-135

State of Arkansas
94th General Assembly

A Bill

JMB/JMB
HOUSE BILL

By: Representative L. Johnson

Filed with: House Committee on Public Health, Welfare, and Labor
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO ADOPT THE EMERGENCY MEDICAL SERVICES
PERSONNEL LICENSURE INTERSTATE COMPACT IN ARKANSAS;
AND FOR OTHER PURPOSES.

Subtitle

TO ADOPT THE EMERGENCY MEDICAL SERVICES
PERSONNEL LICENSURE INTERSTATE COMPACT
IN ARKANSAS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 20, Chapter 13, is amended to add an
additional subchapter to read as follows:

Subchapter 19 – Emergency Medical Services Personnel Licensure Interstate
Compact

20-13-1901. Text of compact.

The Emergency Medical Services Personnel Licensure Interstate Compact
is enacted into law and entered into by this state with all states legally
joining therein and in the form substantially as follows:

RECOGNITION OF EMERGENCY MEDICAL SERVICES PERSONNEL LICENSURE INTERSTATE
COMPACT (“REPLICA”)

EMS PERSONNEL LICENSURE INTERSTATE COMPACTSECTION 1. PURPOSE

In order to protect the public through verification of competency and ensure accountability for patient care related activities all states license emergency medical services (EMS) personnel, such as emergency medical technicians (EMTs), advanced EMTs and paramedics. This Compact is intended to facilitate the day to day movement of EMS personnel across state boundaries in the performance of their EMS duties as assigned by an appropriate authority and authorize state EMS offices to afford immediate legal recognition to EMS personnel licensed in a member state. This Compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of EMS personnel and that such state regulation shared among the member states will best protect public health and safety. This Compact is designed to achieve the following purposes and objectives:

1. Increase public access to EMS personnel;
2. Enhance the states' ability to protect the public's health and safety, especially patient safety;
3. Encourage the cooperation of member states in the areas of EMS personnel licensure and regulation;
4. Support licensing of military members who are separating from an active duty tour and their spouses;
5. Facilitate the exchange of information between member states regarding EMS personnel licensure, adverse action and significant investigatory information;
6. Promote compliance with the laws governing EMS personnel practice in each member state; and
7. Invest all member states with the authority to hold EMS personnel accountable through the mutual recognition of member state licenses.

SECTION 2. DEFINITIONS

In this compact:

- A. "Advanced Emergency Medical Technician (AEMT)" means: an

1 individual licensed with cognitive knowledge and a scope of practice that
2 corresponds to that level in the National EMS Education Standards and
3 National EMS Scope of Practice Model.

4 B. “Adverse Action” means: any administrative, civil, equitable or
5 criminal action permitted by a state’s laws which may be imposed against
6 licensed EMS personnel by a state EMS authority or state court, including,
7 but not limited to, actions against an individual’s license such as
8 revocation, suspension, probation, consent agreement, monitoring or other
9 limitation or encumbrance on the individual’s practice, letters of reprimand
10 or admonition, fines, criminal convictions and state court judgments
11 enforcing adverse actions by the state EMS authority.

12 C. “Alternative program” means: a voluntary, non-disciplinary
13 substance abuse recovery program approved by a state EMS authority.

14 D. “Certification” means: the successful verification of entry-level
15 cognitive and psychomotor competency using a reliable, validated, and legally
16 defensible examination.

17 E. “Commission” means: the national administrative body of which all
18 states that have enacted the compact are members.

19 F. “Emergency Medical Technician (EMT)” means: an individual licensed
20 with cognitive knowledge and a scope of practice that corresponds to that
21 level in the National EMS Education Standards and National EMS Scope of
22 Practice Model.

23 G. “Home State” means: a member state where an individual is licensed
24 to practice emergency medical services.

25 H. “License” means: the authorization by a state for an individual to
26 practice as an EMT, AEMT, paramedic, or a level in between EMT and paramedic.

27 I. “Medical Director” means: a physician licensed in a member state
28 who is accountable for the care delivered by EMS personnel.

29 J. “Member State” means: a state that has enacted this compact.

30 K. “Privilege to Practice” means: an individual’s authority to
31 deliver emergency medical services in remote states as authorized under this
32 compact.

33 L. “Paramedic” means: an individual licensed with cognitive knowledge
34 and a scope of practice that corresponds to that level in the National EMS
35 Education Standards and National EMS Scope of Practice Model.

36 M. “Remote State” means: a member state in which an individual is not

1 licensed.

2 N. "Restricted" means: the outcome of an adverse action that limits a
3 license or the privilege to practice.

4 O. "Rule" means: a written statement by the interstate Commission
5 promulgated pursuant to Section 12 of this compact that is of general
6 applicability; implements, interprets, or prescribes a policy or provision of
7 the compact; or is an organizational, procedural, or practice requirement of
8 the Commission and has the force and effect of statutory law in a member
9 state and includes the amendment, repeal, or suspension of an existing rule.

10 P. "Scope of Practice" means: defined parameters of various duties or
11 services that may be provided by an individual with specific credentials.
12 Whether regulated by rule, statute, or court decision, it tends to represent
13 the limits of services an individual may perform.

14 Q. "Significant Investigatory Information" means:

15 1. .investigative information that a state EMS authority, after
16 a preliminary inquiry that includes notification and an opportunity to
17 respond if required by state law, has reason to believe, if proved true,
18 would result in the imposition of an adverse action on a license or privilege
19 to practice; or

20 2. investigative information that indicates that the individual
21 represents an immediate threat to public health and safety regardless of
22 whether the individual has been notified and had an opportunity to respond.

23 R. "State" means: means any state, commonwealth, district, or
24 territory of the United States.

25 S. "State EMS Authority" means: the board, office, or other agency
26 with the legislative mandate to license EMS personnel.

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28 SECTION 3. HOME STATE LICENSURE
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30 A. Any member state in which an individual holds a current license
31 shall be deemed a home state for purposes of this compact.

32 B. Any member state may require an individual to obtain and retain a
33 license to be authorized to practice in the member state under circumstances
34 not authorized by the privilege to practice under the terms of this compact.

35 C. A home state's license authorizes an individual to practice in a
36 remote state under the privilege to practice only if the home state:

1 1. Currently requires the use of the National Registry of
2 Emergency Medical Technicians (NREMT) examination as a condition of issuing
3 initial licenses at the EMT and paramedic levels;

4 2. Has a mechanism in place for receiving and investigating
5 complaints about individuals;

6 3. Notifies the Commission, in compliance with the terms herein,
7 of any adverse action or significant investigatory information regarding an
8 individual;

9 4. No later than five years after activation of the Compact,
10 requires a criminal background check of all applicants for initial licensure,
11 including the use of the results of fingerprint or other biometric data
12 checks compliant with the requirements of the Federal Bureau of Investigation
13 with the exception of federal employees who have suitability determination in
14 accordance with US CFR §731.202 and submit documentation of such as
15 promulgated in the rules of the Commission; and

16 5. Complies with the rules of the Commission.

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18 SECTION 4. COMPACT PRIVILEGE TO PRACTICE

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20 A. Member states shall recognize the privilege to practice of an
21 individual licensed in another member state that is in conformance with
22 Section 3.

23 B. To exercise the privilege to practice under the terms and
24 provisions of this compact, an individual must:

25 1. Be at least 18 years of age;

26 2. Possess a current unrestricted license in a member state as
27 an EMT, AEMT, paramedic, or state recognized and licensed level with a scope
28 of practice and authority between EMT and paramedic; and

29 3. Practice under the supervision of a medical director.

30 C. An individual providing patient care in a remote state under the
31 privilege to practice shall function within the scope of practice authorized
32 by the home state unless and until modified by an appropriate authority in
33 the remote state as may be defined in the rules of the commission.

34 D. Except as provided in Section 4 subsection C, an individual
35 practicing in a remote state will be subject to the remote state's authority
36 and laws. A remote state may, in accordance with due process and that state's

1 laws, restrict, suspend, or revoke an individual's privilege to practice in
2 the remote state and may take any other necessary actions to protect the
3 health and safety of its citizens. If a remote state takes action it shall
4 promptly notify the home state and the Commission.

5 E. If an individual's license in any home state is restricted or
6 suspended, the individual shall not be eligible to practice in a remote state
7 under the privilege to practice until the individual's home state license is
8 restored.

9 F. If an individual's privilege to practice in any remote state is
10 restricted, suspended, or revoked the individual shall not be eligible to
11 practice in any remote state until the individual's privilege to practice is
12 restored.

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14 SECTION 5. CONDITIONS OF PRACTICE IN A REMOTE STATE

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16 An individual may practice in a remote state under a privilege to practice
17 only in the performance of the individual's EMS duties as assigned by an
18 appropriate authority, as defined in the rules of the Commission, and under
19 the following circumstances:

20 1. The individual originates a patient transport in a home state and
21 transports the patient to a remote state;

22 2. The individual originates in the home state and enters a remote
23 state to pick up a patient and provide care and transport of the patient to
24 the home state;

25 3. The individual enters a remote state to provide patient care and/or
26 transport within that remote state;

27 4. The individual enters a remote state to pick up a patient and
28 provide care and transport to a third member state;

29 5. Other conditions as determined by rules promulgated by the
30 commission.

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32 SECTION 6. RELATIONSHIP TO EMERGENCY MANAGEMENT ASSISTANCE COMPACT

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34 Upon a member state's governor's declaration of a state of emergency or
35 disaster that activates the Emergency Management Assistance Compact (EMAC),
36 all relevant terms and provisions of EMAC shall apply and to the extent any

1 terms or provisions of this Compact conflicts with EMAC, the terms of EMAC
2 shall prevail with respect to any individual practicing in the remote state
3 in response to such declaration.

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5 SECTION 7. VETERANS, SERVICE MEMBERS SEPARATING FROM ACTIVE DUTY MILITARY,
6 AND THEIR SPOUSES

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8 A. Member states shall consider a veteran, active military service
9 member, and member of the National Guard and Reserves separating from an
10 active duty tour, and a spouse thereof, who holds a current valid and
11 unrestricted NREMT certification at or above the level of the state license
12 being sought as satisfying the minimum training and examination requirements
13 for such licensure.

14 B. Member states shall expedite the processing of licensure
15 applications submitted by veterans, active military service members, and
16 members of the National Guard and Reserves separating from an active duty
17 tour, and their spouses.

18 C. All individuals functioning with a privilege to practice under this
19 Section remain subject to the Adverse Actions provisions of Section VIII.

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21 SECTION 8. ADVERSE ACTIONS

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23 A. A home state shall have exclusive power to impose adverse action
24 against an individual's license issued by the home state.

25 B. If an individual's license in any home state is restricted or
26 suspended, the individual shall not be eligible to practice in a remote state
27 under the privilege to practice until the individual's home state license is
28 restored.

29 1. All home state adverse action orders shall include a
30 statement that the individual's compact privileges are inactive. The order
31 may allow the individual to practice in remote states with prior written
32 authorization from both the home state and remote state's EMS authority.

33 2. An individual currently subject to adverse action in the home
34 state shall not practice in any remote state without prior written
35 authorization from both the home state and remote state's EMS authority.

36 C. A member state shall report adverse actions and any occurrences

1 that the individual's compact privileges are restricted, suspended, or
2 revoked to the Commission in accordance with the rules of the Commission.

3 D. A remote state may take adverse action on an individual's privilege
4 to practice within that state.

5 E. Any member state may take adverse action against an individual's
6 privilege to practice in that state based on the factual findings of another
7 member state, so long as each state follows its own procedures for imposing
8 such adverse action.

9 F. A home state's EMS authority shall investigate and take appropriate
10 action with respect to reported conduct in a remote state as it would if such
11 conduct had occurred within the home state. In such cases, the home state's
12 law shall control in determining the appropriate adverse action.

13 G. Nothing in this Compact shall override a member state's decision
14 that participation in an alternative program may be used in lieu of adverse
15 action and that such participation shall remain non-public if required by the
16 member state's laws. Member states must require individuals who enter any
17 alternative programs to agree not to practice in any other member state
18 during the term of the alternative program without prior authorization from
19 such other member state.

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21 SECTION 9. ADDITIONAL POWERS INVESTED IN A MEMBER STATE'S EMS AUTHORITY
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23 A member state's EMS authority, in addition to any other powers granted under
24 state law, is authorized under this compact to:

25 1. Issue subpoenas for both hearings and investigations that require
26 the attendance and testimony of witnesses and the production of evidence.
27 Subpoenas issued by a member state's EMS authority for the attendance and
28 testimony of witnesses, and/or the production of evidence from another member
29 state, shall be enforced in the remote state by any court of competent
30 jurisdiction, according to that court's practice and procedure in considering
31 subpoenas issued in its own proceedings. The issuing state EMS authority
32 shall pay any witness fees, travel expenses, mileage, and other fees required
33 by the service statutes of the state where the witnesses and/or evidence are
34 located; and

35 2. Issue cease and desist orders to restrict, suspend, or revoke an
36 individual's privilege to practice in the state.

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SECTION 10. ESTABLISHMENT OF THE INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE

A. The Compact states hereby create and establish a joint public agency known as the Interstate Commission for EMS Personnel Practice.

1. The Commission is a body politic and an instrumentality of the Compact states.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. Each member state shall have and be limited to one (1) delegate. The responsible official of the state EMS authority or his designee shall be the delegate to this Compact for each member state. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the member state in which the vacancy exists. In the event that more than one board, office, or other agency with the legislative mandate to license EMS personnel at and above the level of EMT exists, the Governor of the state will determine which entity will be responsible for assigning the delegate.

2. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

3. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

4. All meetings shall be open to the public, and public notice

1 of meetings shall be given in the same manner as required under the
2 rulemaking provisions in Section XII.

3 5. The Commission may convene in a closed, non-public meeting if
4 the Commission must discuss:

5 a. Non-compliance of a member state with its obligations
6 under the Compact;

7 b. The employment, compensation, discipline or other
8 personnel matters, practices or procedures related to specific employees or
9 other matters related to the Commission's internal personnel practices and
10 procedures;

11 c. Current, threatened, or reasonably anticipated
12 litigation;

13 d. Negotiation of contracts for the purchase or sale of
14 goods, services, or real estate;

15 e. Accusing any person of a crime or formally censuring
16 any person;

17 f. Disclosure of trade secrets or commercial or financial
18 information that is privileged or confidential;

19 g. Disclosure of information of a personal nature where
20 disclosure would constitute a clearly unwarranted invasion of personal
21 privacy;

22 h. Disclosure of investigatory records compiled for law
23 enforcement purposes;

24 i. Disclosure of information related to any investigatory
25 reports prepared by or on behalf of or for use of the Commission or other
26 committee charged with responsibility of investigation or determination of
27 compliance issues pursuant to the compact; or

28 j. Matters specifically exempted from disclosure by
29 federal or member state statute.

30 6. If a meeting, or portion of a meeting, is closed pursuant to
31 this provision, the Commission's legal counsel or designee shall certify that
32 the meeting may be closed and shall reference each relevant exempting
33 provision. The Commission shall keep minutes that fully and clearly describe
34 all matters discussed in a meeting and shall provide a full and accurate
35 summary of actions taken, and the reasons therefore, including a description
36 of the views expressed. All documents considered in connection with an action

1 shall be identified in such minutes. All minutes and documents of a closed
2 meeting shall remain under seal, subject to release by a majority vote of the
3 Commission or order of a court of competent jurisdiction.

4 C. The Commission shall, by a majority vote of the delegates,
5 prescribe bylaws and/or rules to govern its conduct as may be necessary or
6 appropriate to carry out the purposes and exercise the powers of the compact,
7 including but not limited to:

8 1. Establishing the fiscal year of the Commission;

9 2. Providing reasonable standards and procedures:

10 a. for the establishment and meetings of other committees;

11 and

12 b. governing any general or specific delegation of any
13 authority or function of the Commission;

14 3. Providing reasonable procedures for calling and conducting
15 meetings of the Commission, ensuring reasonable advance notice of all
16 meetings, and providing an opportunity for attendance of such meetings by
17 interested parties, with enumerated exceptions designed to protect the
18 public's interest, the privacy of individuals, and proprietary information,
19 including trade secrets. The Commission may meet in closed session only after
20 a majority of the membership votes to close a meeting in whole or in part. As
21 soon as practicable, the Commission must make public a copy of the vote to
22 close the meeting revealing the vote of each member with no proxy votes
23 allowed;

24 4. Establishing the titles, duties and authority, and reasonable
25 procedures for the election of the officers of the Commission;

26 5. Providing reasonable standards and procedures for the
27 establishment of the personnel policies and programs of the Commission.
28 Notwithstanding any civil service or other similar laws of any member state,
29 the bylaws shall exclusively govern the personnel policies and programs of
30 the Commission;

31 6. Promulgating a code of ethics to address permissible and
32 prohibited activities of Commission members and employees;

33 7. Providing a mechanism for winding up the operations of the
34 Commission and the equitable disposition of any surplus funds that may exist
35 after the termination of the Compact after the payment and/or reserving of
36 all of its debts and obligations;

1 8. The Commission shall publish its bylaws and file a copy
2 thereof, and a copy of any amendment thereto, with the appropriate agency or
3 officer in each of the member states, if any.

4 9. The Commission shall maintain its financial records in
5 accordance with the bylaws.

6 10. The Commission shall meet and take such actions as are
7 consistent with the provisions of this Compact and the bylaws.

8 D. The Commission shall have the following powers:

9 1. The authority to promulgate uniform rules to facilitate and
10 coordinate implementation and administration of this Compact. The rules shall
11 have the force and effect of law and shall be binding in all member states;

12 2. To bring and prosecute legal proceedings or actions in the
13 name of the Commission, provided that the standing of any state EMS authority
14 or other regulatory body responsible for EMS personnel licensure to sue or be
15 sued under applicable law shall not be affected;

16 3. To purchase and maintain insurance and bonds;

17 4. To borrow, accept, or contract for services of personnel,
18 including, but not limited to, employees of a member state;

19 5. To hire employees, elect or appoint officers, fix
20 compensation, define duties, grant such individuals appropriate authority to
21 carry out the purposes of the compact, and to establish the Commission's
22 personnel policies and programs relating to conflicts of interest,
23 qualifications of personnel, and other related personnel matters;

24 6. To accept any and all appropriate donations and grants of
25 money, equipment, supplies, materials and services, and to receive, utilize
26 and dispose of the same; provided that at all times the Commission shall
27 strive to avoid any appearance of impropriety and/or conflict of interest;

28 7. To lease, purchase, accept appropriate gifts or donations of,
29 or otherwise to own, hold, improve or use, any property, real, personal or
30 mixed; provided that at all times the Commission shall strive to avoid any
31 appearance of impropriety;

32 8. To sell convey, mortgage, pledge, lease, exchange, abandon,
33 or otherwise dispose of any property real, personal, or mixed;

34 9. To establish a budget and make expenditures;

35 10. To borrow money;

36 11. To appoint committees, including advisory committees

1 comprised of members, state regulators, state legislators or their
2 representatives, and consumer representatives, and such other interested
3 persons as may be designated in this compact and the bylaws;

4 12. To provide and receive information from, and to cooperate
5 with, law enforcement agencies;

6 13. To adopt and use an official seal; and

7 14. To perform such other functions as may be necessary or
8 appropriate to achieve the purposes of this Compact consistent with the state
9 regulation of EMS personnel licensure and practice.

10 E. Financing of the Commission

11 1. The Commission shall pay, or provide for the payment of, the
12 reasonable expenses of its establishment, organization, and ongoing
13 activities.

14 2. The Commission may accept any and all appropriate revenue
15 sources, donations, and grants of money, equipment, supplies, materials, and
16 services.

17 3. The Commission may levy on and collect an annual assessment
18 from each member state or impose fees on other parties to cover the cost of
19 the operations and activities of the Commission and its staff, which must be
20 in a total amount sufficient to cover its annual budget as approved each year
21 for which revenue is not provided by other sources. The aggregate annual
22 assessment amount shall be allocated based upon a formula to be determined by
23 the Commission, which shall promulgate a rule binding upon all member states.

24 4. The Commission shall not incur obligations of any kind prior
25 to securing the funds adequate to meet the same; nor shall the Commission
26 pledge the credit of any of the member states, except by and with the
27 authority of the member state.

28 5. The Commission shall keep accurate accounts of all receipts
29 and disbursements. The receipts and disbursements of the Commission shall be
30 subject to the audit and accounting procedures established under its bylaws.
31 However, all receipts and disbursements of funds handled by the Commission
32 shall be audited yearly by a certified or licensed public accountant, and the
33 report of the audit shall be included in and become part of the annual report
34 of the Commission.

35 F. Qualified Immunity, Defense, and Indemnification

36 1. The members, officers, executive director, employees and

1 representatives of the Commission shall be immune from suit and liability,
2 either personally or in their official capacity, for any claim for damage to
3 or loss of property or personal injury or other civil liability caused by or
4 arising out of any actual or alleged act, error or omission that occurred, or
5 that the person against whom the claim is made had a reasonable basis for
6 believing occurred within the scope of Commission employment, duties or
7 responsibilities; provided that nothing in this paragraph shall be construed
8 to protect any such person from suit and/or liability for any damage, loss,
9 injury, or liability caused by the intentional or willful or wanton
10 misconduct of that person.

11 2. The Commission shall defend any member, officer, executive
12 director, employee or representative of the Commission in any civil action
13 seeking to impose liability arising out of any actual or alleged act, error,
14 or omission that occurred within the scope of Commission employment, duties,
15 or responsibilities, or that the person against whom the claim is made had a
16 reasonable basis for believing occurred within the scope of Commission
17 employment, duties, or responsibilities; provided that nothing herein shall
18 be construed to prohibit that person from retaining his or her own counsel;
19 and provided further, that the actual or alleged act, error, or omission did
20 not result from that person's intentional or willful or wanton misconduct.

21 3. The Commission shall indemnify and hold harmless any member,
22 officer, executive director, employee, or representative of the Commission
23 for the amount of any settlement or judgment obtained against that person
24 arising out of any actual or alleged act, error or omission that occurred
25 within the scope of Commission employment, duties, or responsibilities, or
26 that such person had a reasonable basis for believing occurred within the
27 scope of Commission employment, duties, or responsibilities, provided that
28 the actual or alleged act, error, or omission did not result from the
29 intentional or willful or wanton misconduct of that person.

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31 SECTION 11. COORDINATED DATABASE

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33 A. The Commission shall provide for the development and maintenance of
34 a coordinated database and reporting system containing licensure, adverse
35 action, and significant investigatory information on all licensed individuals
36 in member states.

1 B. Notwithstanding any other provision of state law to the contrary, a
2 member state shall submit a uniform data set to the coordinated database on
3 all individuals to whom this compact is applicable as required by the rules
4 of the Commission, including:

- 5 1. Identifying information;
- 6 2. Licensure data;
- 7 3. Significant investigatory information;
- 8 4. Adverse actions against an individual's license;
- 9 5. An indicator that an individual's privilege to practice is
10 restricted, suspended or revoked;
- 11 6. Non-confidential information related to alternative program
12 participation;
- 13 7. Any denial of application for licensure, and the reason(s)
14 for such denial; and
- 15 8. Other information that may facilitate the administration of
16 this Compact, as determined by the rules of the Commission.

17 C. The coordinated database administrator shall promptly notify all
18 member states of any adverse action taken against, or significant
19 investigative information on, any individual in a member state.

20 D. Member states contributing information to the coordinated database
21 may designate information that may not be shared with the public without the
22 express permission of the contributing state.

23 E. Any information submitted to the coordinated database that is
24 subsequently required to be expunged by the laws of the member state
25 contributing the information shall be removed from the coordinated database.

26 SECTION 12. RULEMAKING

27 A. The Commission shall exercise its rulemaking powers pursuant to the
28 criteria set forth in this Section and the rules adopted thereunder. Rules
29 and amendments shall become binding as of the date specified in each rule or
30 amendment.

31 B. If a majority of the legislatures of the member states rejects a
32 rule, by enactment of a statute or resolution in the same manner used to
33 adopt the Compact, then such rule shall have no further force and effect in
34 any member state.

1 C. Rules or amendments to the rules shall be adopted at a regular or
2 special meeting of the Commission.

3 D. Prior to promulgation and adoption of a final rule or rules by the
4 Commission, and at least sixty (60) days in advance of the meeting at which
5 the rule will be considered and voted upon, the Commission shall file a
6 Notice of Proposed Rulemaking:

7 1. On the website of the Commission; and

8 2. On the website of each member state EMS authority or the
9 publication in which each state would otherwise publish proposed rules.

10 E. The Notice of Proposed Rulemaking shall include:

11 1. The proposed time, date, and location of the meeting in which
12 the rule will be considered and voted upon;

13 2. The text of the proposed rule or amendment and the reason for
14 the proposed rule;

15 3. A request for comments on the proposed rule from any
16 interested person; and

17 4. The manner in which interested persons may submit notice to
18 the Commission of their intention to attend the public hearing and any
19 written comments.

20 F. Prior to adoption of a proposed rule, the Commission shall allow
21 persons to submit written data, facts, opinions, and arguments, which shall
22 be made available to the public.

23 G. The Commission shall grant an opportunity for a public hearing
24 before it adopts a rule or amendment if a hearing is requested by:

25 1. At least twenty-five (25) persons;

26 2. A governmental subdivision or agency; or

27 3. An association having at least twenty-five (25) members.

28 H. If a hearing is held on the proposed rule or amendment, the
29 Commission shall publish the place, time, and date of the scheduled public
30 hearing.

31 1. All persons wishing to be heard at the hearing shall notify
32 the executive director of the Commission or other designated member in
33 writing of their desire to appear and testify at the hearing not less than
34 five (5) business days before the scheduled date of the hearing.

35 2. Hearings shall be conducted in a manner providing each person
36 who wishes to comment a fair and reasonable opportunity to comment orally or

1 in writing.

2 3. No transcript of the hearing is required, unless a written
3 request for a transcript is made, in which case the person requesting the
4 transcript shall bear the cost of producing the transcript. A recording may
5 be made in lieu of a transcript under the same terms and conditions as a
6 transcript. This subsection shall not preclude the Commission from making a
7 transcript or recording of the hearing if it so chooses.

8 4. Nothing in this section shall be construed as requiring a
9 separate hearing on each rule. Rules may be grouped for the convenience of
10 the Commission at hearings required by this section.

11 I. Following the scheduled hearing date, or by the close of business
12 on the scheduled hearing date if the hearing was not held, the Commission
13 shall consider all written and oral comments received.

14 J. The Commission shall, by majority vote of all members, take final
15 action on the proposed rule and shall determine the effective date of the
16 rule, if any, based on the rulemaking record and the full text of the rule.

17 K. If no written notice of intent to attend the public hearing by
18 interested parties is received, the Commission may proceed with promulgation
19 of the proposed rule without a public hearing.

20 L. Upon determination that an emergency exists, the Commission may
21 consider and adopt an emergency rule without prior notice, opportunity for
22 comment, or hearing, provided that the usual rulemaking procedures provided
23 in the Compact and in this section shall be retroactively applied to the rule
24 as soon as reasonably possible, in no event later than ninety (90) days after
25 the effective date of the rule. For the purposes of this provision, an
26 emergency rule is one that must be adopted immediately in order to:

- 27 1. Meet an imminent threat to public health, safety, or welfare;
28 2. Prevent a loss of Commission or member state funds;
29 3. Meet a deadline for the promulgation of an administrative
30 rule that is established by federal law or rule; or
31 4. Protect public health and safety.

32 M. The Commission or an authorized committee of the Commission may
33 direct revisions to a previously adopted rule or amendment for purposes of
34 correcting typographical errors, errors in format, errors in consistency, or
35 grammatical errors. Public notice of any revisions shall be posted on the
36 website of the Commission. The revision shall be subject to challenge by any

1 person for a period of thirty (30) days after posting. The revision may be
2 challenged only on grounds that the revision results in a material change to
3 a rule. A challenge shall be made in writing, and delivered to the chair of
4 the Commission prior to the end of the notice period. If no challenge is
5 made, the revision will take effect without further action. If the revision
6 is challenged, the revision may not take effect without the approval of the
7 Commission.

8
9 SECTION 13. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

10
11 A. Oversight

12 1. The executive, legislative, and judicial branches of state
13 government in each member state shall enforce this compact and take all
14 actions necessary and appropriate to effectuate the compact's purposes and
15 intent. The provisions of this compact and the rules promulgated hereunder
16 shall have standing as statutory law.

17 2. All courts shall take judicial notice of the compact and the
18 rules in any judicial or administrative proceeding in a member state
19 pertaining to the subject matter of this compact which may affect the powers,
20 responsibilities or actions of the Commission.

21 3. The Commission shall be entitled to receive service of
22 process in any such proceeding, and shall have standing to intervene in such
23 a proceeding for all purposes. Failure to provide service of process to the
24 Commission shall render a judgment or order void as to the Commission, this
25 Compact, or promulgated rules.

26 B. Default, Technical Assistance, and Termination

27 1. If the Commission determines that a member state has
28 defaulted in the performance of its obligations or responsibilities under
29 this compact or the promulgated rules, the Commission shall:

30 a. Provide written notice to the defaulting state and
31 other member states of the nature of the default, the proposed means of
32 curing the default and/or any other action to be taken by the Commission; and

33 b. Provide remedial training and specific technical
34 assistance regarding the default.

35 2. If a state in default fails to cure the default, the
36 defaulting state may be terminated from the Compact upon an affirmative vote

1 of a majority of the member states, and all rights, privileges and benefits
2 conferred by this compact may be terminated on the effective date of
3 termination. A cure of the default does not relieve the offending state of
4 obligations or liabilities incurred during the period of default.

5 3. Termination of membership in the compact shall be imposed
6 only after all other means of securing compliance have been exhausted. Notice
7 of intent to suspend or terminate shall be given by the Commission to the
8 governor, the majority and minority leaders of the defaulting state's
9 legislature, and each of the member states.

10 4. A state that has been terminated is responsible for all
11 assessments, obligations, and liabilities incurred through the effective date
12 of termination, including obligations that extend beyond the effective date
13 of termination.

14 5. The Commission shall not bear any costs related to a state
15 that is found to be in default or that has been terminated from the compact,
16 unless agreed upon in writing between the Commission and the defaulting
17 state.

18 6. The defaulting state may appeal the action of the Commission
19 by petitioning the U.S. District Court for the District of Columbia or the
20 federal district where the Commission has its principal offices. The
21 prevailing member shall be awarded all costs of such litigation, including
22 reasonable attorney's fees.

23 C. Dispute Resolution

24 1. Upon request by a member state, the Commission shall attempt
25 to resolve disputes related to the compact that arise among member states and
26 between member and non-member states.

27 2. The Commission shall promulgate a rule providing for both
28 mediation and binding dispute resolution for disputes as appropriate.

29 D. Enforcement

30 1. The Commission, in the reasonable exercise of its discretion,
31 shall enforce the provisions and rules of this compact.

32 2. By majority vote, the Commission may initiate legal action in
33 the United States District Court for the District of Columbia or the federal
34 district where the Commission has its principal offices against a member
35 state in default to enforce compliance with the provisions of the compact and
36 its promulgated rules and bylaws. The relief sought may include both

1 injunctive relief and damages. In the event judicial enforcement is
2 necessary, the prevailing member shall be awarded all costs of such
3 litigation, including reasonable attorney's fees.

4 3. The remedies herein shall not be the exclusive remedies of
5 the Commission. The Commission may pursue any other remedies available under
6 federal or state law.

7
8 SECTION 14. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR EMS
9 PERSONNEL PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

10
11 A. The compact shall come into effect on the date on which the compact
12 statute is enacted into law in the tenth member state. The provisions, which
13 become effective at that time, shall be limited to the powers granted to the
14 Commission relating to assembly and the promulgation of rules. Thereafter,
15 the Commission shall meet and exercise rulemaking powers necessary to the
16 implementation and administration of the compact.

17 B. Any state that joins the compact subsequent to the Commission's
18 initial adoption of the rules shall be subject to the rules as they exist on
19 the date on which the compact becomes law in that state. Any rule that has
20 been previously adopted by the Commission shall have the full force and
21 effect of law on the day the compact becomes law in that state.

22 C. Any member state may withdraw from this compact by enacting a
23 statute repealing the same.

24 1. A member state's withdrawal shall not take effect until six
25 (6) months after enactment of the repealing statute.

26 2. Withdrawal shall not affect the continuing requirement of the
27 withdrawing state's EMS authority to comply with the investigative and
28 adverse action reporting requirements of this act prior to the effective date
29 of withdrawal.

30 D. Nothing contained in this compact shall be construed to invalidate
31 or prevent any EMS personnel licensure agreement or other cooperative
32 arrangement between a member state and a non-member state that does not
33 conflict with the provisions of this compact.

34 E. This Compact may be amended by the member states. No amendment to
35 this Compact shall become effective and binding upon any member state until
36 it is enacted into the laws of all member states.

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SECTION 15. CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. If this compact shall be held contrary to the constitution of any state member thereto, the compact shall remain in full force and effect as to the remaining member states. Nothing in this compact supersedes state law or rules related to licensure of EMS agencies.

20-13-1902. Administration of compact – Rules.

(a) The Department of Health is the Emergency Medical Services Personnel Licensure Interstate Compact administrator in this state.

(b) The department may adopt rules consistent with the compact that are necessary to implement this subchapter.

(c) The department is not required to adopt the rules of the Interstate Commission for EMS Personnel Practice for those rules to be effective in this state.

Referred by Representative L. Johnson

Prepared by: JMB/JMB