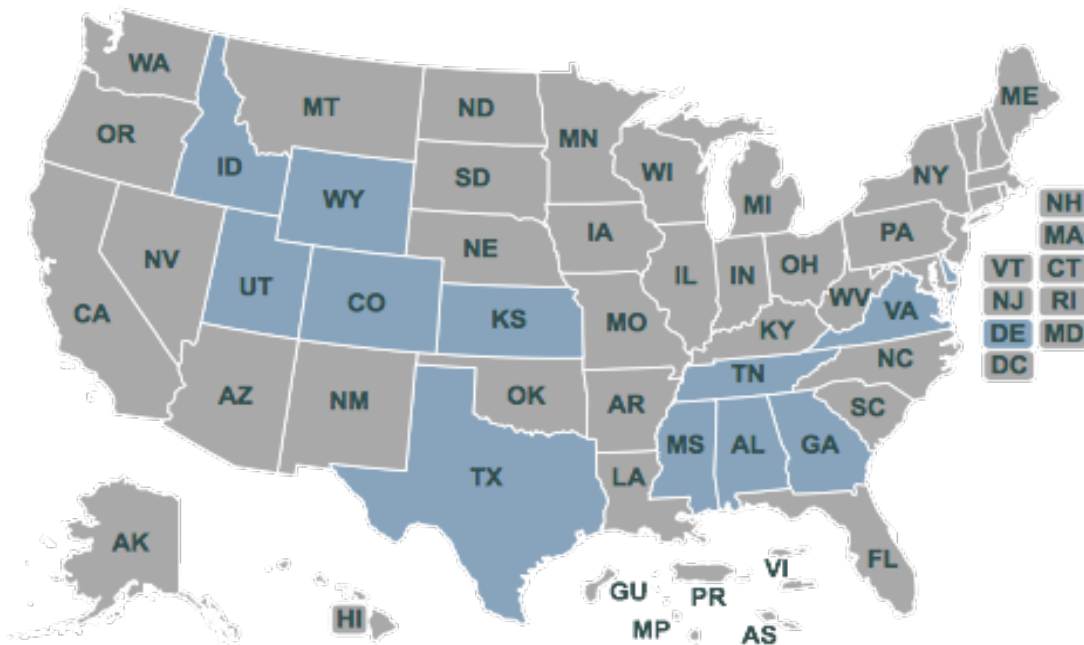


RECOGNITION OF EMS PERSONNEL LICENSURE INTERSTATE COMPACT (REPLICA)

Interstate Commission for EMS Personnel Practice Inaugural Meeting & Public Hearing

October 7 -8th, 2017

The Oklahoma City Museum of Fine Arts
Oklahoma City, OK 73102



**Alabama- Colorado- Delaware- Georgia- Idaho- Kansas-
Mississippi- Tennessee- Texas- Utah- Virginia- Wyoming**

RECOGNITION OF EMS PERSONNEL LICENSURE INTERSTATE COMPACT (REPLICA)

INTERSTATE COMMISSION OF EMS PERSONNEL PRACTICE

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- Compact Governance
- Compacts as Tools of the Game
- Compact FAQ's



Oklahoma State Department of Health
Creating a State of Health

October 7, 2017

Recognition of EMS Personnel Licensure Interstate Compact
Full Commission Meeting
Oklahoma City, Oklahoma

Ladies and Gentlemen;

I want to welcome you to Oklahoma City.

A few years ago, NASEMSO selected Oklahoma City to be the location for their 2017 Fall Conference. At that time, no one knew that Oklahoma City would be getting two national meetings with that selection. This is a great example of what happens when a great idea is developed and people are willing to invest time, money, effort, and energy to see the idea succeed.

In 2012, the Recognition of EMS Personnel Licensure Interstate Compact, or REPLICA was started. The stakeholders, decision makers, the States, and the providers have worked tirelessly to have REPLICA brought into existence. The hard work paid off when the tenth state passed the statutory language that implemented the Interstate Compact language in 2017. Today, there are twelve states that are part of the Compact with seven more states with the statutory language introduced.

From both a professional and personal perspective, The Compact has the ability to be as important to our industry as Presidents Johnson's National Highway Traffic Safety White Paper of 1966 and the creation of the National Registry of Emergency Medical Technicians in 1970. The effect from those events; and others, has been the recognition that EMS is important to our nation's public safety network, our public health infrastructure, our health care system, and to the citizens we serve. REPLICA will build on those successes.

And, we will be able to say, "I was in Oklahoma City when it began."

Thank you for being here, and thank you for the dedication and support you provide this industry.

Sincerely;

Dale Adkerson
Administrative Program Manager – EMS Division
OSDH – Emergency Systems

Board of Health

Terry L. Cline, PhD
Commissioner of Health
Secretary of Health
and Human Services

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MEETING AGENDA

REPLICA:

- **Background and Need**
- **Interstate Compacts**
- **Interstate Commission**



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Interstate Compact for EMS Personnel Practice

Full Commission Meeting & Public Hearing

Day One, Saturday – Oct. 7, 2017

1:00p.m. - 4:30 p.m.

Registration

12:30p.m. to 1:00p.m.

Welcome and Introductions

Sue Prentiss

1:00p.m.

Sue Prentiss, Advocate, REPLICA
Dale Adkerson, Director, Oklahoma EMS

**REPLICA’s History and Background
History and Background**

Sue Prentiss

1:10p.m.

Presenters:

Dia Gainor, Executive Director, National Association of State EMS Officials (NASEMSO)
Rick Masters Esq, Special Counsel, National Center for Interstate Compacts

Introduction of the Honorary Chairpersons

Inaugural Workgroup

1:30p.m.

Debra Cason, Chairperson, National Registry of EMTs Board of Directors

Dia Gainor, Executive Director, NASEMSO

Rick Patrick, Senior Advisor, Department of Homeland Security, Office of Health Affairs

Seating of the Commissioners

Honorary Chairs

Introduction of the Interim Chair

Sue Prentiss

2:00p.m.

Doug Wolfberg, Esq. (Page, Wolfberg and Wirth)

Alabama - Colorado - Delaware - Georgia - Idaho - Kansas - Mississippi -Tennessee - Texas - Utah - Virginia - Wyoming

Gavel Meeting to Order **Doug Wolfberg** **2:05p.m.**

- Roll call of REPLICA States
- Overview of the agenda

Role of EMS Compact Commission, Commissioners and Expectations **Doug Wolfberg** **2:10p.m.**

Presenter:
Sue A. Tedford, MNsc, APRN, Executive Director
Arkansas Board of Nursing – Nurse Licensure Compact Delegate

Facilitators:
Rick Masters Esq., Special Counsel
Sue Prentiss, Advocate

BREAK **3:15p.m.**

Commission Administration & Operations Session #1 **Doug Wolfberg** **3:30p.m.**

Facilitators:
Doug Wolfberg Esq., Interim Chair
Rick Masters Esq., Special Counsel
Sue Prentiss, Advocate

- Discussion and adoption of interim bylaws
- Review role of officers
- Nominating process for officers – review/explain
- Nomination of officers (resume, brief comments)

(NOTE: Only – pre-officer election)

Public Comment from Non-Commissioner Attendees **4:15p.m.**

Day Two Sunday – Oct. 8, 2017 **8:00 a.m – 4:30 p.m**

Call to Order **Doug Wolfberg** **8:00a.m.**

Facilitator:
Doug Wolfberg Esq., Interim Chair

- Roll call
- Recap/review of Day One

Election of Officers

Doug Wolfberg

8:10a.m.

Facilitators:

Doug Wolfberg Esq., Interim Chair
Rick Masters Esq., Special Counsel

- Nominating process reviewed
- Conduct election, managed by Interim Chairperson
- Turn gavel over to newly elected Chairperson

Transitional Issues

Elected Chairperson

8:30a.m.

Facilitators:

Rick Masters Esq., Special Counsel
Sue Prentiss, Advocate

- Identify and discuss issues (member state implementation, Commission)

Public Hearing

Elected Chairperson

9:30a.m.

- **Public Hearing:** Discussion and adoption of transitional rule -
- Rule on Rulemaking Amendment *

BREAK

10:30a.m.

Committee Structure and Function

Elected Chairperson

10:45a.m.

Presenters:

Rick Masters Esq., Special Counsel
Sue Prentiss, Advocate

- Compact Commission committees to be considered (Refer to draft Interim Bylaws)
- Overview of purpose, and structure of each Committee
- Establish Committees (**Commission Chairperson to make appointments**)
- Discussion of future rulemaking process and procedures
- Breakout session for Committee planning – work plan development

LUNCH

12:15p.m.

**Commission Administration & Operation
Session #2**

Elected Chairperson

1:15p.m.

Facilitators:

Rick Masters Esq., Special Counsel
Sue Prentiss, Advocate

- Commission budgeting
- Commission management
- Advocacy update 2017-2018
- Coordinated Database (agreement, administration)
- Commission legal counsel

Meeting summary, steps moving forward

Elected Chairperson

3:00p.m.

Facilitator:

Rick Masters Esq., Special Counsel

Elected Chairperson and Commission Leadership

- **Commissioner Check In – Round Table Discussion**

3:30p.m.

Public Comment from Non-Commissioner Attendees

4:15p.m.

For more information on REPLICa and/or the Interstate Commission on EMS Personnel Practice, please contact Sue Prentiss at (603) 381-9195, or prentiss@emsreplica.org

*Public Hearing notice issued separately

**Refreshments for Commission members only

***All times listed as approximate

RECOGNITION OF EMS PERSONNEL LICENSURE COMPACT (REPLICA)

Background and Need

States have had the authority to license emergency medical services personnel since the 1970s. While the federal government frequently provides resources and assistance to aid states in developing licensing protocols, licenses are issued based on individual state practices.

The license issued to emergency services personnel by a state is based on a determination of the individual's fitness to practice; the individual must meet or exceed the minimum requirements established by that state's laws and regulations. These requirements vary by state, but often include:

- Completing a state-approved or nationally accredited training program;
- Obtaining a passing score on a national certification examination;
- Passing a criminal history background check;
- Being credentialed by a licensed ambulance service or other emergency agency, and
- Having a medical director who is responsible for verifying the competency of the provider on a periodic basis.

The EMS industry has undergone much change since the 1970s. It is becoming increasingly more common for EMS personnel to cross state lines to provide services in non-declared states of emergency. This increased level of interstate movement and cooperation has placed a renewed emphasis on how EMS personnel are licensed to ensure that they are not being accused of practicing medicine in a state in which they are not technically licensed. As a result, there is an increasing need for a universal means of assuring a legal, accountable and geographically consistent method of licensing emergency services personnel.

An interstate compact, REPLICA, has been developed as that mechanism. State borders should not serve as barriers to patient access, present burdensome processes for state-by-state licensure and change the level of protection afforded to the public. This Compact also includes an expedited process for members of the military and their spouses separating from active duty. REPLICA will host a Coordinated Database, allowing for states to access and rapidly share EMS personnel licensure information, and thus achieve a new level of accountability within the EMS profession.

Interstate Compacts


Prior to REPLICA, there have been limited efforts to address the problem, most notably border states entering into memorandums of understanding to allow EMS personnel to work across state lines, for example, "Limited Recognition" for the purposes of Wildland firefighting in states like Idaho, Wyoming, and Colorado. The permanent, time-tested solution to solving this growing problem is the formation of an interstate compact. REPLICA is that solution, and it allows member states to self-regulate the existing system for licensing EMS personnel.

Compacts, which are governed by the tenets of contract law, provide states an enforceable, sustainable and durable tool capable of ensuring permanent change without federal intervention. With more than 215 interstate compacts in existence today and each state belonging to an average of 25 compacts, there is considerable legal and historical precedence for the development and use of the tool.

Several compacts that deal specifically with licensing and emergency management issues already exist. Compacts such as the Driver's License Compact and the Nurse Licensure Compact provide precedence for member states to honor licenses issued in another member state. Numerous compacts deal with emergency management and preparedness, including the Emergency Management Assistance Compact and the existing regional forest fire compacts. **An emergency medical services personnel compact would allow the member states to preserve state sovereignty through collective control and self-regulation.**

Interstate Commission for EMS Personnel Practice

Compacts are managed by a "joint public agency," the Commission. Each state that joins REPLICA has one seat on the Commission and one vote per issue/matter. The United States Constitution, (Art. 1, Sec. 10, Clause 3) allows for and recognizes this Compact and its governing body as means by which states can jointly address common problems in need of a solution. The Commission will create bylaws, promulgate rules, and develop policies and procedures of which the scope is narrowed to Compact-related. This rulemaking does not interfere with other state EMS laws and rules and is conducted like any other body writing rules. All meetings, materials, and proceedings are public. Each state that passes REPLICA after the first ten will have a seat on the Commission and participate readily in all proceedings.



COMMISSIONERS
HONORARY CHAIRS
INTERIM CHAIR
SPECIAL COUNSEL
GUEST SPEAKERS

**RECOGNITION OF EMS PERSONNEL LICENSURE INTERSTATE
COMPACT (REPLICA)
INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE**

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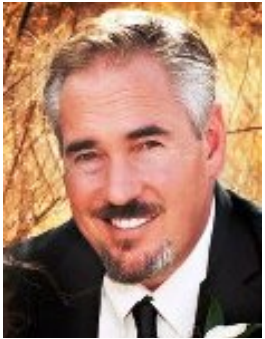
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RECOGNITION OF EMS PERSONNEL LICENSURE COMPACT (REPLICA)

Interstate Commission for EMS Personnel Practice

Honorary Chairs & Interim Chair



Richard W. Patrick, (Rick) M.S., EFO, CFO, EMT-P, FF, is the acting Deputy Chief of Staff for the HDS Office of Health Affairs and Senior Advisor on Health & First Responder Policy for the Assistant Secretary for Health Affairs & Chief Medical Officer of the Department of Homeland Security (DHS). Mr. Patrick recently returned to DHS after serving a Brookings Congressional Legislative Fellowship in the United States Senate.

Mr. Patrick began his service with DHS in June 2008 as Chief of Medical First Responder Coordination. He served Deputy Director and Director (acting) of the Workforce Health & Medical Support Division of OHA. Mr. Patrick has been actively involved in volunteer and career emergency medical and fire rescue services for thirty-nine years and is a nationally recognized leader in emergency services. In 2010, the International Association of Fire Chiefs EMS Section bestowed a “Meritorious Service Award” to Chief Patrick for his dedication, service and work toward the betterment of the emergency medical services industry. Mr. Patrick is a graduate of the National Preparedness Leadership Initiative (Cohort IX), Harvard – Kennedy School of Government.

Mr. Patrick has a Masters Degree in Public Safety Management from Saint Joseph’s University in Philadelphia; is a Paramedic and certified Firefighter; and, is a Designated Chief Fire Officer and an Executive Fire Officer. Mr. Patrick is an internationally recognized expert and lecturer on various leadership, public safety, risk management and health and homeland security subjects. He resides in the Washington, DC area with his wife Linda.



Debra Cason, RN, MS, Paramedic, In 2016, Ms Cason retired from her position as Program Director and Associate Professor at University of Texas Southwestern Medical Center in Dallas where she worked for more than 38 years. Her position included oversight of initial and continuing education for EMT and paramedic programs.

Prior to this position, she worked in Parkland Memorial Hospital Emergency Department where she was a staff nurse and Head Nurse. Ms. Cason chaired the Committee on Accreditation for EMS Professions (formerly Joint Review Committee) and is a past president of the National Association of EMS Educators. She worked closely with the EMS Education Agenda for the Future and led the 2009 Education Standards project. She has edited and co-edited EMS textbooks and articles.



Dia Gainor, MPA, is the executive director for the National Association of State EMS Officials (NASEMSO) and provides strategic leadership to promote and expand the organization's presence and capacity as a national leader in emergency medical services (EMS). As executive director, she acts as a spokesperson for NASEMSO, positioning the association to pursue its vision with federal partners and other organizations.

Dia's duties and responsibilities include outreach, representation and business development. She also is the staff lead for both the NHTSA-funded EMS Workforce Guidelines and DHS-funded Model Interstate Compact for EMS Personnel Licensure projects. Prior to coming to ASMI, Dia was Idaho's State EMS director for 19 years. She served as president and treasurer of NASEMSO, as well as chair of its Highway Incident & Transportations Systems Committee. In 2008, Dia was appointed by Secretary Peters to serve on the National EMS Advisory Council (NEMSAC) to the U.S. Department of Transportation (U.S. DOT) and was selected by the National Highway Traffic Safety Administration (NHTSA) to serve as the Council's first chair. She also chaired the Intelligent Transportation Systems Transportation Safety Advancement Group (TSAG) for the U.S. DOT Research and Innovative Technology Administration, which focuses on interdisciplinary opportunities to promote technology solutions to protect public safety responders and travelers. In May 2011, Dia received the highest award the Idaho Military Division may bestow upon a civilian, the Idaho Distinguished Service Medal. Additionally, she received the Idaho Governor's Challenge Coin "in gratitude for her service." She is an "EMS 10 Innovator" and the 2010 recipient of the James O. Page/ JEMS Award. Administration, and 12 years of field experience as a paramedic and firefighter.

Recognition of EMS Personnel EMS Licensure Compact (REPLICA)

Interstate Commission of EMS Personnel Practice

Interim Chair



Doug Wolfberg, Esq., is a founding partner of Page, Wolfberg & Wirth, and one of the best known EMS attorneys and consultants in the United States. Widely regarded as the nation's leading EMS law firm, PWW represents private, public and non-profit EMS organizations, as well as billing companies, software manufacturers and others that serve the nation's ambulance industry. Doug answered his first ambulance call in 1978 and has been involved in EMS ever since.

After earning his undergraduate degree in Health Planning and Administration from the Pennsylvania State University in 1987, Doug went to work as a county EMS director. He then became the director of a three-county regional EMS agency based in Williamsport, Pennsylvania. He then moved on to work for several years on the staff of the state EMS council. In 1993, Doug went to the nation's capital to work at the United States Department of Health and Human Services, where he worked on federal EMS and trauma care issues. Doug left HHS to attend law school, and in 1996 graduated magna cum laude from the Widener University School of Law. After practicing for several years as a litigator and healthcare attorney in a large Philadelphia-based law firm, Doug co-founded PWW in 2000 along with Steve Wirth and the late James O. Page. Doug also served as a Commissioner of the Commission on Accreditation of Ambulance Services (CAAS).

Recognition of EMS Personnel Licensure Interstate Compact (REPLICA)

Interstate Commission for EMS Personnel Practice

Special Counsel



Rick Masters, Esq., is the special counsel for Interstate Compacts and legal consultant to the National Center for Interstate Compacts, operated by The Council of State Governments (CSG) in Lexington, Ky. He also provides legal advice and counsel to three interstate national compact commissions which are affiliated with CSG. He received a B.A. degree from Asbury College in 1976 and his Juris Doctorate from the Louis D. Brandeis School of Law of the University of Louisville in 1979. He was formerly assistant attorney general for the Commonwealth of Kentucky until 1982 after which he served as general counsel for CSG at the national office in Lexington, Ky.

Rick has written and spoken extensively on the subject of interstate compacts and is the principal draftsman of the Interstate Compact for Adult Offender Supervision enacted by all 50 states, the Interstate Compact for Juveniles, enacted by 46 states, the Interstate Compact on Educational Opportunity for Military Children, enacted by 31 states, and the Interstate Compact for the Placement of Children which is currently under consideration by numerous state legislatures. Rick has testified before numerous state legislative committees on these subjects. In conjunction with CSG, he has also consulted with the National Highway Traffic Safety Administration, United States Department of Justice/National Institute of Corrections and Office of Juvenile Justice and Delinquency Prevention, and the U.S. Department of Defense concerning various interstate compact projects including those previously mentioned.

Rick continues to be involved in consultation, research and writing concerning interstate compacts and constitutional law issues. He has coauthored numerous articles concerning the law of interstate compacts including a law review article about the Interstate Compact for Adult Offender Supervision which was published in the Fall 2003 edition of the Roger Williams University Law Review entitled: ***The Interstate Compact on Adult Offender Supervision: Using Old Tools to Solve New Problems***. Rick is also the coauthor of a book on the law and use of interstate compacts entitled: ***The Evolving Use and Changing Role of Interstate Compacts: A Practitioner's Guide***, which was published by the American Bar Association in 2007.

Recognition of EMS Personnel Licensure Interstate Compact (REPLICA)

Interstate Commission for EMS Personnel Practice

Guest Speaker



Sue Tedford, MNSc, APRN, is the Executive Director at the Arkansas State Board of Nursing. She served as Assistant Director of Education prior to her appointment as Executive Director. Ms. Tedford received her bachelor's degree in nursing from the University of Central Arkansas in Conway and her master of nursing science degree from the University of Arkansas for Medical Sciences in Little Rock. Ms. Tedford is a licensed registered nurse and advanced practice registered nurse.

Ms. Tedford is currently serving as Chairman for the Enhanced Nurse Licensure Compact, President of the Arkansas Center for Nursing and Co-chair of the Center for Nursing Data Resource Committee. She has also previously served as past Vice-Chairman and Treasurer for the Nurse Licensure Compact and on several National Council of State Boards of Nursing committees; chairman for the Continued Competence Advisory Panel from 2005-2007, the NurSys Committee from 2009-2011 and CORE Committee from 2012-2015. She also works with National Council on various other issues related to NCLEX® and continuing education programs. Ms. Tedford wrote the online continuing education program on the Arkansas *Nurse Practice Act* which is offered by the National Council of State Boards of Nursing. Ms. Tedford is a reviewer for the Journal of Nursing Regulation. She was honored in 2003 by Arkansas Nurses Association as Nurse of the Year and was the 2010 recipient of the Exceptional Contribution Award given by the National Council of State Boards of Nursing.

Prior to her appointment at the Board of Nursing, Ms. Tedford served as a faculty and level coordinator at JPMC School of Nursing for eighteen years. She also has experience in critical care, home health and long term care.

RECOGNITION OF EMS PERSONNEL LICENSURE INTERSTATE COMPACT (REPLICA)

Interstate Commission for Emergency Medical Services (EMS) Personnel Practice

Compact Commission Cues

Congratulations, your state is a member of the Recognition of EMS Personnel Licensure Interstate Compact (REPLICA). Planning for the nation's first interstate compact began in 2012, with a model legislation being released in September 2014. To date, twelve states have enacted REPLICA, a formal pathway for the licensed individual to provide pre-hospital care across state lines under authorized circumstances. REPLICA increases patient access to EMS, reduces regulatory barriers for EMS personnel and brings unprecedented accountability to the EMS profession. The time has come where the borders between states will no longer be seen as a barrier to the practice of EMS. REPLICA provides a collective solution to an age-old problem in EMS, the legal recognition of individual EMS provider practice outside of their home state of licensure.

As a member of this new Compact, your state has assumed several new responsibilities of which you, as a state EMS authority/official, will be responsible once seated as a Compact Commissioner. The Compact Cues have been developed to aid state EMS officials-Commissioners to better understand the Recognition of EMS Personnel Licensure Interstate Compact (REPLICA) regarding its use, actions and implementation.

- **Cue #1: Become familiar with the REPLICA language enacted in your state.**

In order to serve the best interests of your state and your fellow Commissioners, it is essential to know the language that legally creates and guides the Compact's structure and operations. Understanding how the Compact relates to your own states EMS statute and administrative rules/code is equally important. Identify areas of the Compact that your state EMS agency needs to come into compliance with that it was not already at the time of the legislation's enactment.

REFERENCES:

All SECTIONS OF THE COMPACT

Cue #2: REPLICAs states should understand the authority vested in the Commission in preparation for the first meeting of the body as well as who can vote at the first meeting.

The Commission has limited authority between the time the tenth state enacts the law and the first full meeting. This authority relates to preparing for the assembly of the body and the “promulgation of rules”. This allows for limited workgroups to have specific discussions on draft interim bylaws, rule-making considerations, commission management and meeting preparation. All member states that have enacted the law along with their official representative shall have the ability to discuss and vote at the first meeting on all draft proposals. The Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact. After that the rules and process by which REPLICAs will be implemented will be binding on the member states to include all future members and those failing to comply can be subject to the 'default' and enforcement provisions.

REFERECNES:

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

A. 1

• Cue #3: EMS authorities in REPLICAs states should consult with the heads of their Department of Public Health, Health and Human Services and/or Public Safety, state advisory boards, councils and commissions on all Compact related matters and update these parties routinely.

As a Compact Commissioner your service is bilateral. You represent the members of your state’s EMS community as well as the Commission. Keeping both constituencies informed as to the activities, needs and ongoing issues being discussed by the Commission is equally valuable to ensuring informed decision-making. Take the time to establish the relationships and communication of Commission business to state stakeholders.

REFERENCES:

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

B. 1,3,4

C.3

SECTION 12. RULEMAKING:

D, E,F,G,H

• Cue #4: Determine how your state will appoint the Commissioner from the state's EMS authority to sit on the Commission under the terms of the Compact.

The delegates who will serve on the commission will be the responsible official from their home state's EMS authority in accordance with Section 10 of the Compact. Should a state have 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". If a vacancy should occur on the Commission, it will be filled in accordance with the laws of the member state in which the vacancy exists. This should occur as soon as possible by either the prompting of the Commission Chairperson or within the state EMS office itself.

As a matter of process, a "Delegate Notification Form" or a letter from the authority within your states administrative department with oversight, will serve as official notification up until a time when Commission policy changes.

REFERENCES:

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

10. B 1, 2

• Cue #5: Determine who will represent your state at the REPLICA Commission meetings if the officially seated Compact Commissioner is unable to attend. The delegate should understand and appreciate the commissioner's responsibilities and that they are not eligible to vote, but are there for information only.

Each state has one representative seated on the Commission and one vote, in accordance with the Compact. States should designate another member of the state EMS authority staff to represent the state should the officially seated Commissioner be unable to attend. Attendance in lieu of the designated Commissioner is a matter of information sharing, gathering and keeping the state current with Commission business. Alternates cannot vote.

It is important to note that all Commission meetings, committee meetings and public hearings allow for virtual participation.

REFERENCES:

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

10. B 1, 2, 3, 4

• **Cue #6: Determine how and where all Commission documents, notices and policies will be made readily available to licensed personnel and the public in your state.**

REPLICA states should maintain a section on their own website for all documents, notices and/or policies to be posted, readily available for the licensed EMS personnel and the public to view. Additionally, member states should circulate all Commission documents to boards, commissions, councils and other healthcare licensing compacts in their states. It is important to maintain and leverage all currently established methods of communications normally used within a member's state.

The Commission will host a website that represents the needs of all REPLICA states and shares information on their behalf. All notices will be in compliance with Commission rulemaking authority.

REFERENCES:

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

10. B 2, 4

SECTION 12 RULEMAKING

12. D,E,F,G,H

• **Cue #7: The Commission should determine and clarify the roles and responsibilities of the Commissioners.**

The Compact language outlines specific duties and responsibilities for the Commission overall. These have been created at the initial phase of the Commission. Other responsibilities and duties could evolve over time with the maturity of the Commission. Items to consider include, but are not limited to:

- * Attend Commission meetings
- * Participate on Commission committees
- * Act as a liaison between the Commission, state EMS offices, key stakeholders
- * Ensure dues (if required) are paid within requirements set by Commission
- * Ensure appointment is in compliance with your state statute
- * Promote the purpose and mission of the Compact

- * Ensure state operations are in compliance with compact provisions and rules
- * Coordinate the implementation of Compact rules
- * Respond to requests, communication and surveys

REFERENCES:

SECTION 1. PURPOSE

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

10. B. 1,2,3,4,5

10. C., D., E., F.

SECTION 12. RULEMAKING

• Cue #8: Appreciate the importance of participation in all REPLICA Commission meetings and the preparation required for those meetings.

The Compact calls for the Commission to meet “at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.” It is likely that the commission will meet several times during the first twelve to eighteen months of operation. It is understood that Commissioners have Compact duties in addition to a full-time role in the leadership of EMS in their state. Staff preparation of materials prior to the meeting is necessary to give Commissioners the time they need to prepare. This also allows for attention to matters ahead of time should additional preparation be necessary.

Committees established by the Commission can and will meet more often until such items such as rules, bylaws, the coordinated database, Commission member education and outreach efforts can be planned and moving towards completion.

Commission and committee meetings as well public hearings can be conducted in person and/or virtually. The virtual participation will allow not only for work to be done in-between face-to-face meetings, but for a much broader group to participate.

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

10. B, 3

10. C, 2, 3, 4

- **Cue #9: REPLICA Commissioners should consider whether they should seek executive office on the Commission and what qualities leaders should possess to hold these positions.**

A set of bylaws will be proposed, discussed and voted on at the first meeting. Within the bylaws, the following roles are cited and defined:

- Chairperson
- Vice Chairperson
- Secretary
- Treasurer

Members of the Commission have been asked to consider being nominated for an officer role in accordance with the interim bylaws. Official nominations will be made on day one of the first full meeting of the Commission and elections will be held on the second day. Resumes or CV's should be sent to the REPLICA Advocate prior to the meeting. Commission officers will have additional duties, including participating in the Executive Committee calls, meetings and duties as needed. Executive Committee meetings, calls and communication are a matter of public record.

When considering running for a Commission officer position it is important that candidates consider past leadership roles and how that experience would not only qualify one to hold the seat, but also consider how that experience would benefit the Commission. Officer roles will require more dedicated time to the Commission and possibly additional travel. Current and past relationships within the national and state EMS community are important to these positions as well.

REFERENCES:

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

10. C 4

- **Cue #10: REPLICA Commissioners should consider if they want to serve on any committees, and be prepared to discuss any additional committees that may be needed and how to ensure input into committee functions.**

The Interstate Commission for EMS Personnel Practice calls for naming committees upon which members may serve. The interim bylaws further detail the committees that may be established, as needed, to address such issues as rules, bylaws, policies, information technology, education, outreach and training.

Considering that the number of states during the start-up of the Commission will be twelve, and that the start-up issues focused on rules, bylaws, coordinated database and commission management, the suggested approach is to start with two or three committees at the most. If adopted, the interim bylaws give the Chairperson the authority to appoint committee members.

In the early days of Commission planning, members of REPLICA state EMS office staff have participated in workgroup activities. It is common for more than one member of a state agency staff to take part on Commission activities. The Compact is not a singular activity, but an entire office and entire EMS system. Integrating staff into REPLICA activities will deepen the knowledge and investment.

REFERENCES:

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

10. C 2 (a)

• Tip #11: REPLICA Commissioners should begin to formulate ideas as to rule making their state would believe the Commission should promulgate.

The Compact creates a governing structure with the capacity to give the authority to effectively manage a rulemaking process in the public eye. For states that have chosen to enact the Compact, representatives are responsible for the rulemaking process. The Compact creates a process for rules to be made by member states and enforced and, when necessary, empowers them to modify rules without returning to each state legislature.

During the preparation process, REPLICA states formed a small workgroup to create draft rules in the seven key areas where clear statutory authority exists to write rules, including:

- Adverse Actions
- Coordinated Database
- Privilege to Practice
- Establishment of an Interstate Commission for EMS Personnel Practice
- Home State Licensure
- Dispute Resolution
- Conditions of Practice in a Remote State

After a Rules Committee is established by the Commission and members are appointed by the Chairperson, any of the draft language and research done by the REPLICA states Rules Workgroup will be turned over to that official group.

REFERENCES:

SECTION 11. COORDINATED DATABASE

SECTION 12. RULEMAKING

SECTION 4. COMPACT PRIVILEGE TO PRACTICE

SECTION 8. ADVERSE ACTIONS

SECTION 3. HOME STATE LICENSURE

SECTION 5. CONDITIONS OF PRACTICE IN A REMOTE STATE

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

SECTION 13. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

- **Cue #12: REPLICA Commissioners may discuss those expenditures members believe will be necessary to operate this Interstate Commission as well as establish a budget.**

The Commission should discuss what resources they need to support day-to-day operations. This would serve as the basis for building a budget. Continuous education and dedicated improvement activities among the member states to enhance the work of the Compact will need support. These duties could include, but are not limited to, the training of state staff, providing legal support, daily technical assistance and the Coordinated Database. Agreements necessary to carry out commission responsibilities will need to be considered and executed. These cover activities such as legal counsel, the Coordinated Database and a location for the Commission to be headquartered. The Compact allows for agreements to be entered into, personnel to be hired, offices to be established and other mechanisms necessary to carry out Commission business.

Currently the National Registry of Emergency Medical Technicians (NREMT) has generously supported the advocacy and the initial Commission activities set-up through a grant to the Association of Society Management International (ASMI). The National Association of State EMS Officials (NASEMSO) has generously provided funding to support the legal fees needed during this phase as well. It is expected that the NREMT will partner with the Commission on the development and the implementation of the Coordinated Database.

REFERENCES:

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

• **Cue #13: Commissioners should read and become familiar with the specific articles and sections of the Compact that may pose legal implications and obligations. If necessary, consult your state agency's legal counsel for assistance. (I.e. governor's office, department legal counsel; or the staff of the state attorney general.)**

Review and discuss the sections of the Compact that allow for states to enter the Compact, withdraw, apply oversight, monitor and resolve disputes. Amendments to the Compact are allowed for; however, they would have to be reviewed, received and ultimately passed in all member states. The Compact language provides mechanisms to deal with issues of compliance that arise for whatever reason. The goal would be to use the tools in the Compact, including mediation and arbitration to solve problems before entering into a costly judicial proceeding. States should also note that "additional" powers have been vested when adopting the Compact that include issuing subpoenas, related to witnesses, and evidence for a matter under investigation in a remote state, as well as issues cease and desist orders and/or policy would need to be established.

REFERENCES:

SECTION 9. ADDITIONAL POWERS INVESTED IN A MEMBER STATE'S EMS AUTHORITY

SECTION 13. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

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

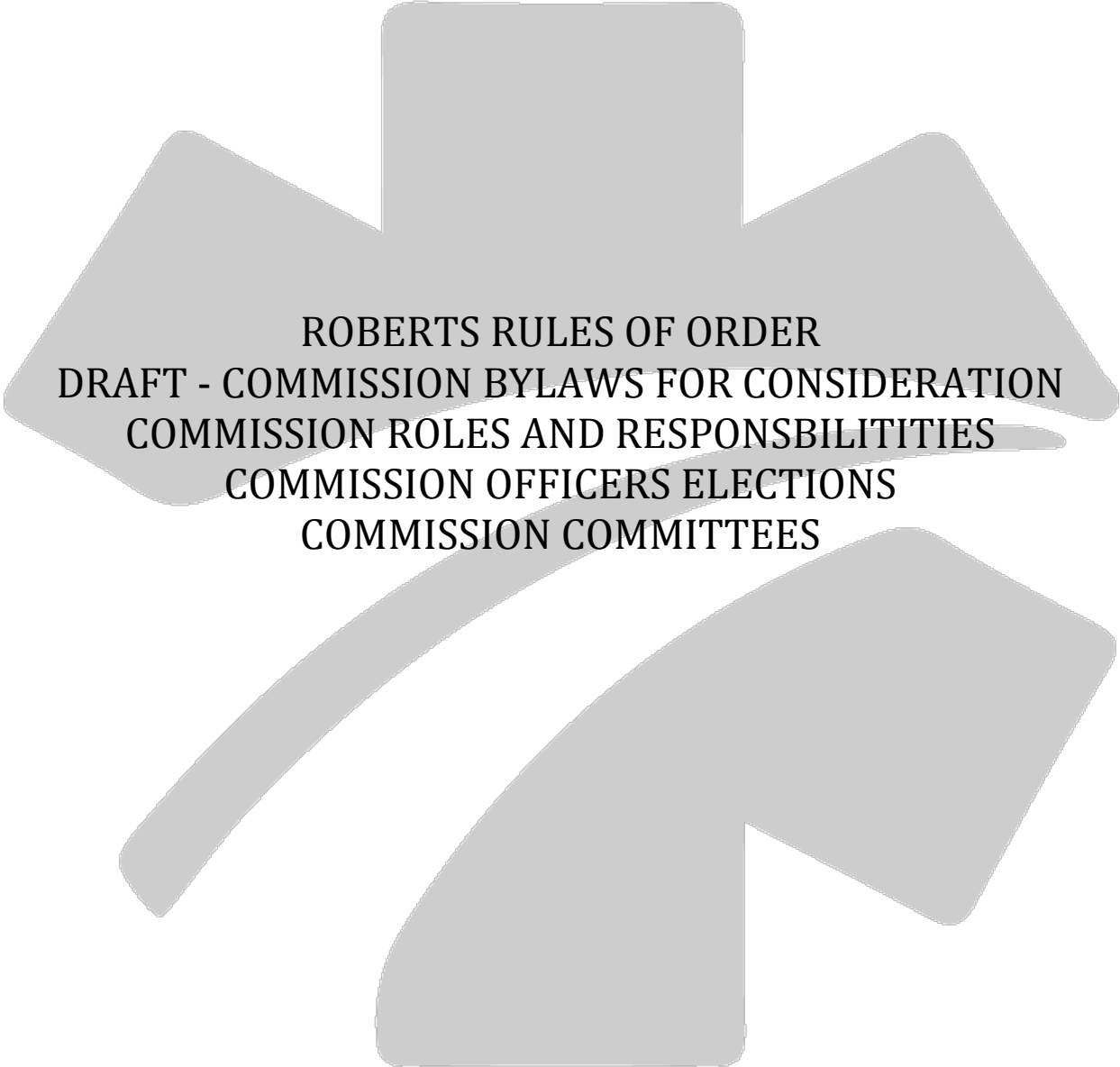
Cue 14. Commissioners should consider what areas of their home state rules and regulations and/or policies need to point to REPLICA.

An example of this is the military and veterans expedited licensure section of the Compact. In accordance with the Compact, "Member states shall expedite the processing of licensure applications submitted by veterans, active military service members, and members of the National Guard and Reserves separating from an active duty tour, and their spouses." For member states that do not already have a process in place, this is an area where a new rule, regulation and/or policy would need to be established.

REFERENCE:

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

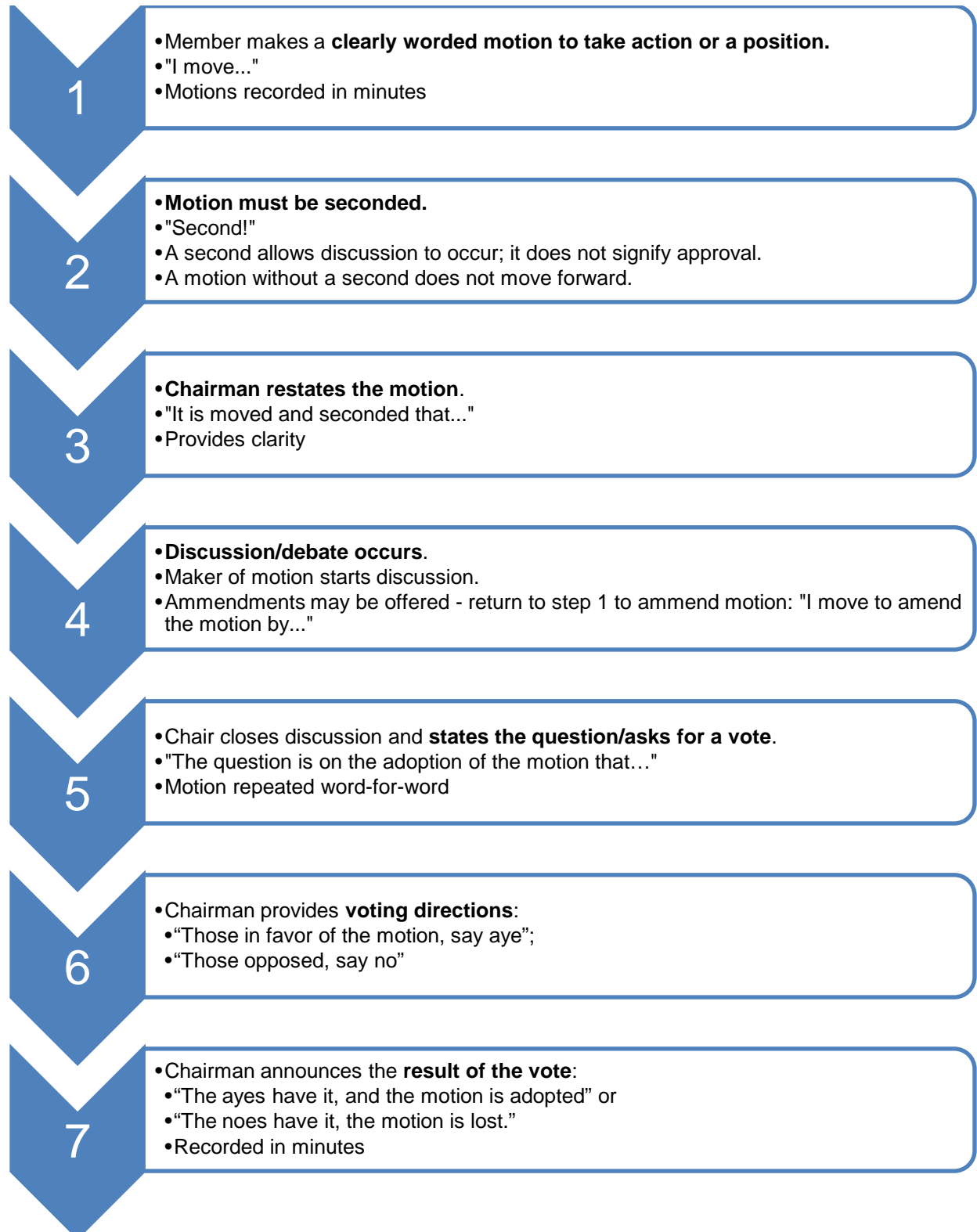




**ROBERTS RULES OF ORDER
DRAFT - COMMISSION BYLAWS FOR CONSIDERATION
COMMISSION ROLES AND RESPONSIBILITIES
COMMISSION OFFICERS ELECTIONS
COMMISSION COMMITTEES**

Robert's Rules of Order Cheat Sheet

HOW TO INTRODUCE NEW BUSINESS – The Main Motion Process



Robert's Rules of Order Cheat Sheet

WHAT DO I SAY?

To Do This	Motion	You Say This	Debate Allowed?	Vote Required
Introduce Business	Main	"I move that..."	Yes	Majority
Second a Motion	Second	"Second!"	No	No
Change the Wording or add Clarity of a Motion	Amend	"I move to amend the motion by..." (adding words; striking out words; substitute words)	Yes	Majority
Send to Committee	Commit/Refer	"I move the motion be referred to ..."	Yes	Majority
Postpone Action until a Specific Time	Postpone	"I move the motion be postponed until..." (provide a specific time on the agenda or next meeting date)	Yes	Majority
Postpone Action until an Unspecified Time (a motion will be required to discuss in the future)	Lay on the Table	"I move to lay the motion on the table."	No	Majority
Limit Debate	Limit Debate	"I move that the debate on this motion be limited to (one) speech of (two) minutes for each member."	No	Two-thirds
End Debate or Request a Vote	Previous Question	"I move the previous question."	No	Two-thirds
Take Intermission	Recess	"I move to recess for (time)."	No	Majority
Close Meeting	Adjourn	"I move to adjourn."	No	Majority

Robert's Rules of Order Additional Information

Why follow Robert's Rules of Order?

- Allows for democratic speech and action
- Preservers order
- Rights of the organization supersede the rights of individuals
- Facilitates group decisions

Meeting Agendas

1. Approval of Minutes
2. Reports (from officers, committees, task forces)
3. Unfinished Business (replaces term "old business")
4. New Business – items brought forward by motion procedure

Meeting Minutes

- Minutes are a legal record of meetings and the organization.
- Minutes are a record of what is done at a meeting, not what is said.

Minutes should include:

1. Name, date and location of meeting
2. List of attendees (note presence of a quorum)
3. Time meeting was called to order
4. Conflict of Interest & Antitrust Avoidance Affirmation
5. Approval of previous meeting minutes
6. Motion text and name of maker
7. Status/results of motions
8. Time meeting was adjourned

Minutes do not include:

- Discussion
- Personal opinion
- Name of seconder of a motion is not necessary
- Motions withdrawn
- Entire reports (rather attach to minutes)

Motion

- A motion is a formal proposal by a member that the group take a certain action or position.
- A main motion is required to begin the decision making process.
- A motion occurs prior to discussion

Ground Rules for Debating

- Remarks must be germane (relevant and appropriate to the discussion); stay on subject.
- Debate issues, not personalities

Robert's Rules of Order Additional Information

Subsidiary Motions

Assist in treating or disposing of a main motion

- **Postpone Indefinitely** = a way to dispose of an embarrassing motion before it can be brought to vote
- **Amend** = a way to clarify or modify wording
 - Amendments should say exactly where in the main motion the change is to be made, and precisely what words to use.
 - Amendments must be germane
 - Follow the motion process for an amendment, then follow procedure to vote on the newly revised main motion.
 - Rather than amend an amendment; ask group to strike down the pending amendment vote then offer a different version.
- **Commit/Refer** = when additional time or information is needed, the item may be sent to a committee or task force (either an existing or newly created)
 - Before voting on a main motion, you may feel the main motion may require additional study and/or redrafting.
 - Motion to commit or refer should specifically state the committee and deadline
 - A special committee may be formed through the motion to commit (motion should include committee make-up and deadline)
 - Motion is debatable, but only about the matters of the referral and not on the main motion
- **Postpone to a Certain Time** = to move to a later time on the agenda or to the next meeting
 - A time is specified when motion will be addressed
 - Preferred over laying on the table
- **Limit or Extend Debate** = when circumstances call for shorter or longer speech
- **Previous Question** = to close debate and bring to an immediate vote
- **Lay on the Table** = lay motion aside temporarily without setting a time for its consideration
 - Taken up again, via motion process, when the majority decides
 - Often misused term for postpone to a certain time

Motions that Bring a Question Before the Assembly Again

1. **Take from the Table** = resume consideration of a main motion
2. **Rescind, Repeal or Annul** = cancel something that has been previously adopted
3. **Amend Something Previous Adopted** = proposal to modify wording or text previously adopted
4. **Discharge a Committee** = if a question has been referred or a task assigned to a committee that has not made a final report the committee may be discharged to allow the Board to take action or to drop the motion
5. **Reconsider** = within the same meeting a motion has been voted on the question may come before the assembly again as if it had not been voted on

Robert's Rules of Order Information for Chairs

Effective Presiding

1. Start On Time
2. Stick to the Agenda
3. Memorize Frequently Used Procedures
4. Make Sure All Know What is Being Debated and Voted On
 - a. See that motions are worded clearly
 - b. Repeat wording of motions frequently
 - c. Make the effects of amendments clear
5. Learn How to Conduct Voting

Voting

Types of Votes

1. **Majority*** = More than half of the votes cast by persons entitled to vote, excluding blanks or abstentions. Whenever a majority vote of the Board of Directors is taken, it shall mean of the quorum present.
2. **Two-Thirds** = two-thirds of the votes cast by persons entitled to vote, excluding abstentions. Whenever a two-thirds vote of the Board is required, it shall mean of the entire Board whether voting or not.
3. **Majority of Entire Membership** = a majority of the total number of those who are members of the voting body at the time of the vote

*Note: A majority vote is different than a plurality vote, which is the largest number of votes (which may be less than a majority) when there are three or more alternatives. Under Robert's Rules of Order, a plurality vote is not sufficient. Re-vote to achieve a majority.

Voting Methods

1. Voice Vote
2. Standing Vote
3. Show of Hands Vote
4. Counted Vote
5. Ballot Vote

Putting the Motion to a Vote

When no one seeks the floor to debate, the chairman asks, "Is there any further debate?"

Voice Vote

The question is on the adoption of the motion that ... (repeat the motion)

Those in favor of the motion, say aye

[pause]

Those opposed, say no

[pause]

The ayes have it and the motion is adopted

- or -

The noes have it and the motion is lost

Robert's Rules of Order Information for Chairs

Show of Hands Vote

The question is on the adoption of the motion that ... (repeat the motion)

Those in favor of the motion will raise the right hand

[Pause]

Those opposed will raise the right hand

[Pause]

Majority vote:

The affirmative has it and the motion is adopted

- or -

The negative has it and the motion is lost

Two-thirds vote:

There are two-thirds in the affirmative and the motion is adopted.

- or -

There are less than two-thirds in the affirmative and the motion is lost

Counted Show of Hands Vote

The question is on the adoption of the motion that ... (repeat the motion)

Those in favor of the motion will raise the right hand and keep it raised until counted

[Pause]

Those opposed will raise the right hand and keep it raised until counted

[Pause]

There are ___ in the affirmative and ___ in the negative

Majority vote:

The affirmative has it and the motion is adopted

- or -

The negative has it and the motion is lost

Two-thirds vote:

There are two-thirds in the affirmative and the motion is adopted.

- or -

There are less than two-thirds in the affirmative and the motion is lost

Recognition of EMS Personnel Licensure Interstate CompAct DRAFT Bylaws

ARTICLE I.

Commission Purpose, Function and Bylaws

Section 1. Purpose

Pursuant to the terms of the **Recognition of Emergency Medical Services (EMS) Personnel Licensure Interstate Compact** (the “Compact”), the **Recognition of EMS Personnel Licensure Compact Commission** (the “Commission”) is established as a body corporate to fulfill the objectives of the Compact through a means of joint cooperative action among the **Member States**: to develop a comprehensive process that complements the existing licensing and regulatory authority of the **State EMS Authority** and extends to **EMS personnel a Privilege to Practice** across state boundaries in Member States, **thereby providing immediate legal recognition to EMS personnel** and ensuring the safety of patients.

Section 2. Functions.

In pursuit of the fundamental objectives set forth in the Compact, the Commission shall, as necessary or required, exercise all of the powers and fulfill all of the duties delegated to it by the **Member States**. The Commission’s activities shall include, but are not limited to, the following: the promulgation of binding rules and operating procedures; equitable distribution of the costs, benefits and obligations of the Compact among the Member States; enforcement of Commission Rules, Operating Procedures and Bylaws; provision of dispute resolution; sharing of licensure history of **Member State EMS personnel and coordination of**

significant investigatory information; and the collection and dissemination of information concerning the activities of the Compact, as provided by the Compact, or as determined by the Commission to be warranted by, and consistent with, the objectives and provisions of the Compact. The provisions of the Compact shall be reasonably and liberally construed to accomplish the purposes and policies of the Compact.

Section 3. Bylaws.

As required by the Compact, these Bylaws shall govern the management and operations of the Commission. As adopted and subsequently amended, these Bylaws shall remain at all times subject to, and limited by, the terms of the Compact.

ARTICLE II.

Membership

The Commission Membership shall be comprised as provided by the Compact. Each Member State shall have and be limited to **one appointed voting representative**. The appointees shall be the Commissioners of the Member State. Each Member State shall forward the names of its Commissioners to the Commission chairperson. The Commission chairperson or their designee shall promptly advise the **State EMS Authority** of the Member State of the need to appoint a new Commissioner whenever a vacancy occurs.

ARTICLE III.

Officers

Section 1. Election and Succession.

The officers of the Commission shall include a chairperson, vice chairperson, secretary and treasurer. The officers shall be duly appointed Commissioners. **Officers shall be elected by the**

Commission at the annual meeting. Except as provided in this section, elected officers shall serve for two years or until their successors are elected by the Commission. The vice-chairperson and secretary shall serve an initial term of one year. The chairperson and treasurer shall serve an initial term of two years. Thereafter, all terms shall be two years. At the end of their term, officers are eligible for re-election.

A Commissioner At-Large will be elected by the membership of the Commission as a whole to an initial two-year term. The At-Large position will be elected concurrent with the Chairperson and Treasurer.

The elected officers shall serve without compensation or remuneration, except as provided by the Compact.

Section 2. Removal of Officers.

Any officer may be removed from office by a majority vote of the Commission.

Section 3. Duties

The officers shall perform all duties of their respective offices as provided by the Compact and these Bylaws. Such duties shall include, but are not limited to, the following:

Chairperson. The chairperson shall call and preside at all meetings of the Commission and in conjunction with the Executive Committee, the chairperson shall prepare agendas for such meetings. The chairperson shall make appointments to all committees of the Commission, and, in accordance with the Commission's directions, or subject to ratification by the Commission, shall act on the Commission's behalf during the interims between Commission meetings as delegated by the Commission.

Vice Chairperson. The vice chairperson shall, in the absence or at the direction of the chairperson, perform any or all of the duties of the chairperson. In the event of a vacancy in the office of chairperson, the vice chairperson shall serve as acting chairperson until a new chairperson is elected by the Commission.

Secretary. The secretary shall keep minutes of all Commission meetings and shall act as the custodian of all documents and records pertaining to the status of the Compact and the business of the Commission.

Treasurer. The treasurer, shall act as custodian of all Commission funds and shall be responsible for monitoring the administration of all fiscal policies and procedures set forth in the Compact or adopted by the Commission. Pursuant to the Compact, the treasurer shall execute such bond as may be required by the Commission covering all officers, Commissioners and Commission personnel, as determined by the Commission, who may be responsible for the receipt, disbursement, or management of Commission funds.

Section 4. Costs and Expense Reimbursement.

Subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by the officers in the performance of their duties and responsibilities as officers of the Commission.

Section 5. Vacancies

Upon the resignation, removal, or death of an officer of the Commission before the next annual meeting of the Commission, a majority of the Executive Committee shall appoint a successor to hold office for the unexpired portion of the term of the officer whose position shall so become vacant or until the next regular or special meeting of the Commission at which the vacancy is filled by majority vote of the Commission, whichever first occurs.

ARTICLE IV.

Commission Offices and Personnel

Section 1. Commission Staff and Offices.

Contractual arrangements may be made with a professional management firm to act or serve as an authorized agent on behalf of the Commission. The management firm must be approved by the Commission and serves under a contract that is legal and binding under law. The Commission may contract for administrative and management functions and tasks that further the purposes and objectives of the Compact but that do not replace the powers of the Commission as delineated by these bylaws. The management firm designates one professional employee as executive director. The executive director serves as the Commission secretary and an ex-officio member of the Commission without voting rights.

A. Operations: The Executive Committee oversees management firm operations and, from time to time, receives reports on the administration of the organization.

B. Obligation: The management firm must be bonded if the person or firm performs any fiduciary or financial functions on behalf of the Commission.

C. Meeting Attendance: The executive director is required to attend the Commission meetings and present reports of activities carried out on behalf of the Commission.

ARTICLE V.

Qualified Immunity, Defense and Indemnification

The members, officers and authorized agents such as an executive director, other personnel acting on behalf of the Commission shall be immune from suit and liability, either personally or in their

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

The Commission shall defend any member, officer and other authorized agent of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

The Commission shall indemnify and hold harmless any member, officer and other authorized agent of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

ARTICLE VI.

Meetings of the Commission

Section 1. Meetings and Notice.

The Commission shall meet at least once each calendar year at a time and place to be determined by the Commission. Commissioners may participate in meetings by telephone or other means of virtual participation. Additional meetings may be scheduled at the discretion of the chairperson, and must be called upon the request of a majority of Commissioners, as provided by the Compact. All Commissioners shall be given written notice of Commission meetings at least thirty (30) days prior to their scheduled dates. A (60) day written notice shall be given when proposed rules will be considered and voted on by the Commission. Final agendas shall be provided to all Commissioners no later than ten (10) days prior to any meeting of the Commission. Thereafter, additional agenda items requiring Commission action may not be added to the final agenda. Discussion items not requiring action may be added to the agenda at any time upon a majority vote of the Commissioners.

All Commission meetings shall be open to the public except as set forth in the Compact Section 10, B, 2. Public notice will be made to announce the meeting at least 30 days prior to any meeting.

A meeting may be closed to the public where the Commission determines by two-thirds (2/3rds) vote of Commissioners that there exists at least one of the conditions for closing a meeting, as provided by the Compact.

Committees established pursuant to Article VII, Section 2, of these bylaws are not subject to the requirements of this Article.

Section 2. Quorum.

A majority of Commissioners shall constitute a quorum for the transaction of business, except as otherwise required in these

bylaws. The presence of a quorum must be established before any vote of the Commission can be taken.

Section 3. Voting.

Each Commissioner is entitled to one vote. A Commissioner shall vote on such member's own behalf and shall not delegate such vote to another Commissioner. Except as otherwise required by the Compact or these Bylaws, any question submitted to a vote of the Commission shall be determined by a simple majority.

Section 4. Procedure.

Matters of parliamentary procedure not covered by these bylaws shall be governed by Robert's Rules of Order.

Section 5. Public Participation in Meetings.

With the exception as written under Section 12 of the Compact, upon prior written request to the Commission, any person who desires to present a statement on a matter that is on the agenda shall be afforded an opportunity to present an oral statement to the Commission at a time designated on the meetings agenda.

Commission meetings will have a designated time for public comment on items not on the agenda. The chairperson may limit the time and manner of any such statements.

The chairperson may, depending on the circumstances, afford any person who desires to present a statement on a matter that is on the agenda an opportunity to be heard absent a prior written request to the Commission. The chairperson may limit the time and manner of any such statements at any open meeting and at the beginning of the meeting.

ARTICLE VII.

Committees

Section 1. Executive Committee.

The Commission may establish an Executive Committee which shall be empowered to act on behalf of the Commission during the interim between Commission meetings, except for rulemaking or amendment of the Compact or these bylaws. The Executive Committee shall be composed of all officers of the Commission, the immediate past chairperson and one member At-Large

The immediate past chairperson is a non-voting member of the Executive Committee. The procedures, duties, budget, and tenure of such an Executive Committee shall be determined by the Commission. The power of such an Executive Committee to act on behalf of the Commission shall be subject to any limitations imposed by the Compact. Public notice of all Executive Committee meetings must be made at least three (3) days prior to the meeting date and the meeting agenda must be made public 24 hours prior to the meeting date.

Section 2. Committees.

The Commission may establish such Committees as it deems necessary to advise it concerning the fulfillment of its objectives, which may include but not be limited to a Budget-Finance Committee, Technology Committee, Bylaws and Rules Committee and Communications and Education and Training Committee. The composition, procedures, duties, budget and tenure of such committees shall be determined by the Commission. The Commission may dissolve any committee it determines is no longer needed. Committees created under this Article VII Section 2 are not subject to the requirements of Article VI of these Bylaws.

ARTICLE VIII.

Finance

Section 1. Fiscal Year.

The Commission's fiscal year shall begin on July 1 and end on June 30.

Section 2. Budget.

The Commission shall operate on an annual budget cycle and shall, in any given year, adopt budgets for the following fiscal year or years as provided by the Compact.

Section 3. Accounting and Audit.

The Commission will arrange for an independent audit or financial review at least once a year or as required by the Compact. The results of the audit or financial review are presented as part of the Treasurer's report during the annual meeting of the Commission.

The Commission's internal accounts, any documents related to any internal audit, and any documents related to the independent audit shall be confidential; provided, that such materials shall be made available:

- i) in compliance with the order of any court of competent jurisdiction;
- ii) pursuant to such reasonable rules as the Commission shall promulgate; and
- iii) to any Commissioner of a **Member State**, or their duly authorized representatives.

Section 4. Debt Limitations.

The Commission shall monitor its own and its committees' affairs for compliance with all provisions of the Compact, its rules, and these bylaws governing the incursion of debt and the pledging of credit.

Section 5. Travel Reimbursements.

Subject to the availability of budgeted funds and unless otherwise provided by the Commission, Commissioners shall be reimbursed for any actual and necessary expenses incurred pursuant to their attendance at all duly convened meetings of the Commission or its committees as provided by the Compact.

ARTICLE IX

Withdrawal, Default and Termination

Member States may withdraw from the Compact only as provided by the Compact. The Commission may terminate a Member State as provided by the Compact.

ARTICLE X

Adoption and Amendment of Bylaws

Any bylaw may be adopted, amended or repealed by a majority vote of Commissioners, provided that written notice and the full text of the proposed action is provided to all Commissioners at least thirty (30) days prior to the meeting at which the action is to be considered. Failing the required notice, a two-third (2/3rds) majority vote of Commissioners shall be required for such action.

ARTICLE XI

Dissolution of the Compact

The Compact shall dissolve effective upon the date of the withdrawal or the termination by default of a **Member State** which reduces Membership in the Compact to one **Member State** as provided by the Compact.

Upon dissolution of the Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Commission shall be concluded in an orderly manner and according to applicable law. **Each Member State** in good

standing at the time of the Compact's dissolution shall receive a pro rata distribution of surplus funds based upon a ratio, the numerator of which shall be the amount of its last paid annual assessment, and the denominator of which shall be the sum of the last paid annual assessments of all **Member States** in good standing at the time of the Compact's dissolution. A Member State is in good standing if it has paid its assessments timely.

DRAFT

RECOGNITION OF EMS PERSONNEL LICENSURE INTERSTATE COMPACT (REPLICA)

INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE

OFFICERS - ROLES AND RESPONSIBILITIES (PROPOSED)

During the first meeting of the Interstate Commission for EMS Personnel Practice, members will be tasked with electing Commission officers from among the member states. These officers will serve as the designated leaders of the Commission, officiating at Commission meetings, overseeing the development and composition of committees, and maintaining close contact with the overall administration of the Compact.

Section 10, Subsection C.4, of the Compact authorizes "Establishing the titles, duties and authority, and reasonable procedures for the election of the officers of the Commission." Once the Commission has adopted bylaws this will further clarify the procedure for election, roles and responsibilities of the officers (proposed) including:

Chairperson. The chairperson shall call and preside at all meetings of the Commission and, in conjunction with the Executive Committee, the chairperson shall prepare agendas for such meetings. The chairperson shall make appointments to all committees of the Commission, and, in accordance with the Commission's directions, or subject to ratification by the Commission, shall act on the Commission's behalf during the interims between Commission meetings as delegated by the Commission.

Vice Chairperson. The vice chairperson shall, in the absence or at the direction of the chairperson, perform any or all of the duties of the chairperson. In the event of a vacancy in the office of chairperson, the vice chairperson shall serve as acting chairperson until a new chairperson is elected by the Commission.

Secretary. The secretary shall keep minutes of all Commission meetings and shall act as the custodian of all documents and records pertaining to the status of the Compact and the business of the Commission.

Treasurer. The treasurer shall act as custodian of all Commission funds and shall be responsible for monitoring the administration of all fiscal policies and procedures set forth in the Compact or adopted by the Commission. Pursuant to the Compact, the treasurer shall execute such bond as may be required by the Commission covering all officers, Commissioners and Commission personnel, as determined by the Commission, who may be responsible for the receipt, disbursement, or management of Commission funds

**RECOGNITION OF EMS PERSONNEL LICENSURE INTERSTATE
COMPACT (REPLICA)
INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE**

ELECTIONS – Positions and Terms

In accordance with the bylaws for the Interstate Commission for EMS Personnel Practice*, Article III. Section 1., the positions to be considered for election, terms and succession are:

Chairperson
Vice-chairperson
Secretary
Treasurer
Member At-large

The officers shall be duly appointed Commissioners. Officers shall be elected by the Commission at the annual meeting. Except as provided in this section, elected officers shall serve for two years or until their successors are elected by the Commission.

The vice-chairperson and secretary shall serve an initial term of one year. The chairperson and treasurer shall serve an initial term of two years. Thereafter, all terms shall be two years. At the end of their term, officers are eligible for re-election.

A Commissioner At-Large will be elected by the membership of the Commission as a whole to an initial two-year term. The At-Large position will be elected concurrently with the Chairperson and Treasurer.

The elected officers shall serve without compensation or remuneration, except as provided by the Compact.

*bylaws proposed for adoption on October 7, 2017

RECOGNITION OF EMS PERSONNEL LICENSURE INTERSTATE COMPACT (REPLICA)

Interstate Commission for EMS Personnel Practice

Committees

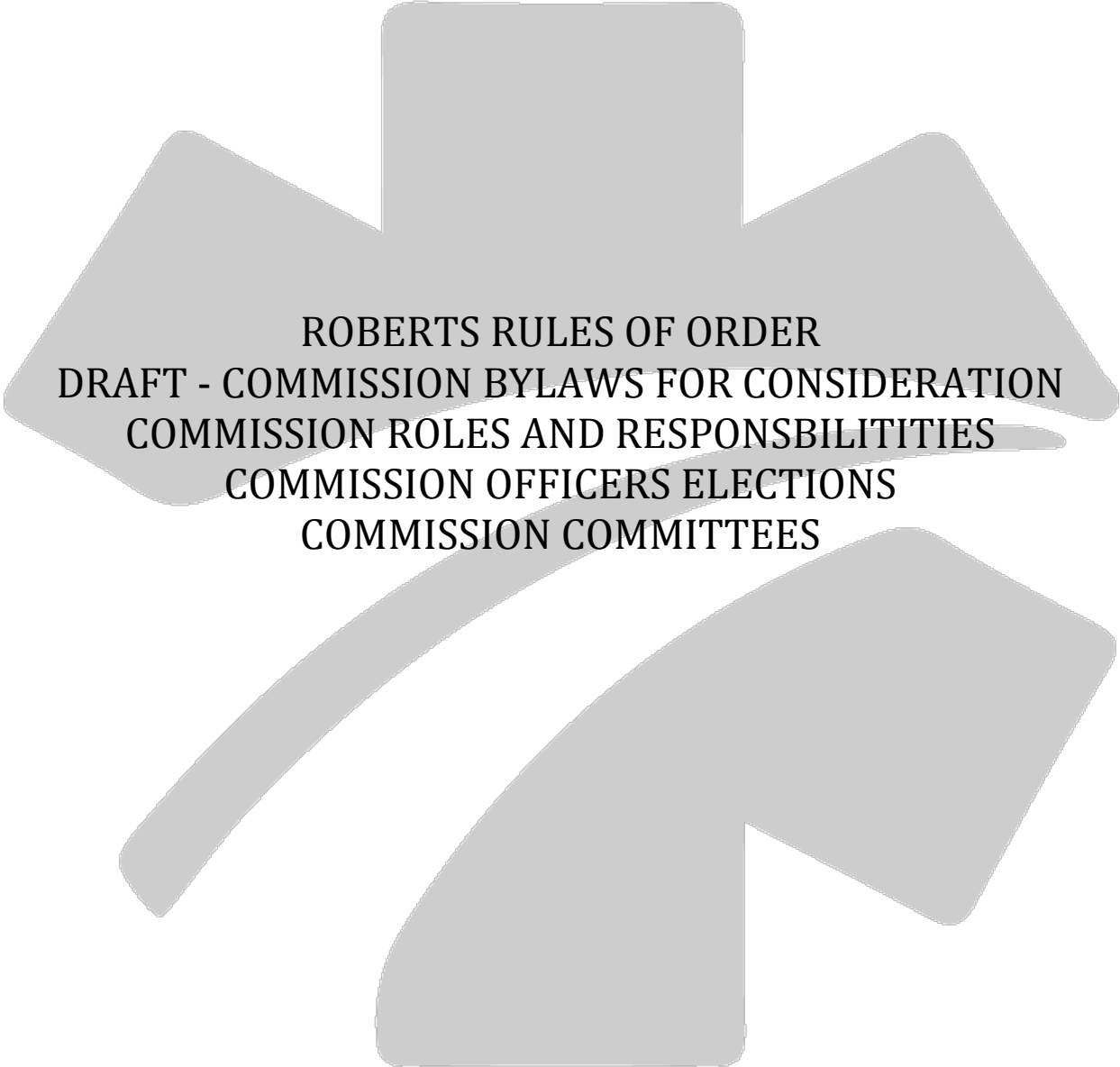
In accordance with Section 10, of the Compact the Commission may adopt bylaws. The bylaws may provide for “reasonable procedures”, including establishing committees as it deems necessary to advise, assist and support in the fulfillment of its objectives. The composition, procedures, duties, budget and tenure of such committees shall be determined by the Commission. Examples of Committees include, but are not limited to:

- **Compliance:** responsible for monitoring the compliance by member states with the terms of the compact and the rules, and for developing appropriate enforcement procedures for the governing body’s consideration.
- **Information Technology / Information Sharing:** responsible for identifying and developing appropriate information technology resources to facilitate the transfer of issue information and the administration of compact activities.
- **Budget - Finance:** responsible for monitoring the governing body’s budget and financial practices, including the collection and expenditure of revenues and for developing recommendations for the membership’s consideration.
- **Bylaws - Rules:** responsible for administering the rulemaking procedures and for developing proposed rules for the governing body’s consideration as well as developing bylaws for the purposes of organizing and conducting the Commission’s business.
- **Training:** responsible for developing educational resources and training materials for using the member states to help ensure awareness of, and compliance with, the terms of the compact and the rules.
- **Executive Committee:** shall be composed of all officers of the Commission, the immediate past chairperson and one member At-Large. The Executive Committee which shall be empowered to act on behalf of the Commission during the interim between Commission meetings, except for rulemaking or amendment of the Compact or these bylaws.

With the exception of the Executive Committee, the Chairperson of the Commission is responsible for appointing members of the body to the Committees.

*proposed for adoption on October 7, 2017

Source: National Center for Interstate Compacts



**ROBERTS RULES OF ORDER
DRAFT - COMMISSION BYLAWS FOR CONSIDERATION
COMMISSION ROLES AND RESPONSIBILITIES
COMMISSION OFFICERS ELECTIONS
COMMISSION COMMITTEES**



201 Park Washington Court
Falls Church, VA 22046
(603)381-9195
prentiss@emsreplica.org
www.emsreplica.org

RECOGNITION OF EMS PERSONNEL LICENSURE INTERSTATE COMPACT (REPLICA) - Interstate Commission for EMS Personnel Practice

NOTICE OF PUBLIC HEARING FOR PROPOSED RULE

Pursuant to the authority of the Recognition of EMS Personnel Licensure Interstate Compact (REPLICA) Sections 10 and 12 the member states hereby provide notice of the intent to consider and vote on the adoption of an administrative rule Chapter 1, "Rule on Rulemaking". In accordance with Section 14 A. of the Compact, the enactment of the Compact into law by the requisite number of member states authorizes such notice under the limited powers of relating to assembly and the promulgation of rules.

The purpose of the proposed rule is to establish a rulemaking process of the Interstate Commission for EMS Personnel Practice that substantially conforms to the principles of the model state administrative procedure act of 2010 and subsequent amendments thereto.

In accordance with Section 14. of the REPLICA, notice of this meeting and intended action and opportunity for public hearing is being distributed to provide public notice of the October 8, 2017, in Oklahoma City, OK. The public hearing for the proposed rule is scheduled as follows:

Sunday, Oct. 8, 2017 - 9:30 a.m.

The meeting will be held at:

**Oklahoma Museum of Fine Arts
415 Couch Drive
Oklahoma City, OK 73102**

Virtual Participation: Either by call in (phone) or by computer with audio, please register via this URL:

<https://register.gotowebinar.com/register/5725974367137182977>

Alabama - Colorado - Georgia - Idaho - Kansas - Mississippi - Tennessee - Texas - Utah -
Virginia - Wyoming

The **registration confirmation email** will provide the call in number and access code. This email will also contain the instructions and the URL to participate by computer/web.

In-Person Participation: *Registration required* by email to Prentiss@emsreplica.org

WRITTEN COMMENTS

Any interested person may present written comments on the proposed rule not later than **3:30 p.m. Eastern Daylight Time (4:30 p.m. Central, 3:30 p.m. Mountain, 2:30 p.m. Pacific) on Sept. 8, 2017**. Such written materials should be sent to Sue Prentiss, Advocate:

201 Park Washington Court
Falls Church, VA 22046
(603) 381-9195
prentiss@emsreplica.org

THE FOLLOWING RULE IS PROPOSED FOR ADOPTION:

Recognition of Emergency Medical Services Personnel Interstate Compact (REPLICA)

Title of Rule: Rulemaking functions of the Interstate Commission for EMS Personnel Licensure

Drafted: July 10, 2017

Effective: TBD by Interstate Commission on EMS Personnel Practice

Amended:

History of Rule: n/a

Chapter 1: Rulemaking functions of the Interstate Commission for EMS Personnel Licensure

Authority: **Section 10.** Establishment of an Interstate Commission for EMS Personnel Practice

Section 12. Rulemaking

- 1.0 Purpose:** Pursuant to Section 12. The Interstate Commission for EMS Personnel Practice shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of REPLICA. This rule will become effective upon passage of the EMS Interstate Commission – REPLICA - by majority vote.
- 1.1 Definition(s):**
- (a) **“Commission”** means the national administrative body of which all states that have enacted the compact are members.
 - (b) **“Member State”** means a state that has enacted this compact.
 - (c) **“Rule”** means a written statement by the Interstate Commission for EMS Personnel Practice promulgated pursuant to Section 12 of this compact that is of general applicability; implements, interprets, or prescribes a policy or provision of the compact; or is an organizational, procedural, or practice requirement of the Commission and has the force and effect of statutory law in a member state and includes the amendment, repeal, or suspension of an existing rule.
 - (d) **“State”** means any state, commonwealth, district, or territory of the United States.
- 1.2 Proposed rules or amendments:** to the rules shall be adopted by majority vote of the members of the Interstate Commission for EMS Personnel Practice in the following manner:
- (a) Proposed new rules and amendments to existing rules shall be submitted to the EMS Interstate Commission for EMS Personnel Practice for referral to the Rules Committee as follows:
 - (1) Any Commissioner may submit a proposed rule or rule amendment for referral to the Rules Committee during the next scheduled Commission meeting. This proposal shall be made in the form of a motion and approved by a majority vote of a quorum of the Commission members present at the meeting;
 - (2) Standing Committees of the Commission may propose rules or rule amendments by majority vote of that Committee.
- 1.3 The Rules Committee:** shall prepare a draft of all proposed rules and provide the draft to all Commissioners for review and comments. All written comments received by the Rules Committee on proposed rules shall be posted on the Commission’s website upon receipt. Based on the comments made by the

Commissioners the Rules Committee shall prepare a final draft of the proposed rule(s) or amendments for consideration by the Commission not later than the next Commission meeting.

1.4 Prior to promulgation and adoption of a final rule: In accordance with Section 12 of the Compact, the Interstate Commission for EMS Personnel Practice shall publish the text of the proposed rule or amendment prepared by the Rules Committee not later than sixty (60) days prior to the meeting at which the vote is scheduled, on the official web site of the Interstate Commission for EMS Personnel Practice and in any other official publication that may be designated by the Interstate Commission for EMS Personnel Practice the publication of its rules. In addition to the text of the proposed rule or amendment, the reason for the proposed rule shall be provided.

1.5 Each administrative rule or amendment shall state:

- (a) The place, time, and date of the scheduled public hearing;
- (b) The manner in which interested persons may submit notice to the EMS Interstate Commission of their intention to attend the public hearing and any written comments; and
- (c) The name, position, physical and electronic mail address, telephone, and telefax number of the person to whom interested persons may respond with notice of their attendance and written comments.

1.6 Public Hearings: Every public hearing shall be conducted in a manner guaranteeing each person who wishes to comment a fair and reasonable opportunity to comment. In accordance with Section 12. H., of the EMS Compact, specifically:

- (a) If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing.
- (b) All persons wishing to be heard at the hearing shall notify the Chairmen of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.
- (c) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.
- (d) No transcript of the public hearing is required, unless a written request for a transcript is made, which case the person or entity making the request shall pay for the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Commission from making a transcript or recording of the public hearing if it chooses to do so.

(e) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the EMS Interstate Commission at hearings required by this section.

(f) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the EMS Interstate Commission shall consider all written and oral comments received.

(g) The EMS Interstate Commission shall, by majority vote of a quorum of the commissioners, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

1.7 Status of Rules upon adoption of Compact additional member states: Any state that joins the compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules, as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the compact becomes law in that state.

1.8 Judicial Review Petition: not later than sixty (60) days after a rule is adopted, any interested person may file a petition for judicial review of the rule in the United States district court of the District of Columbia or in the federal district court where the Interstate Commission's principal office is located. If the court finds that the EMS Interstate Commission's action is not supported by substantial evidence, as defined in the federal Administrative Procedures Act, in the rulemaking record, the court shall hold the rule unlawful and set it aside.

1.9 Emergency Rulemaking: Upon determination that an emergency exists, the EMS Interstate Commission may consider and adopt an emergency rule that shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. An emergency rule is one that must be made effective immediately in order to:

- (a) Meet an imminent threat to public health, safety, or welfare;
- (b) Prevent a loss of federal or state funds;
- (c) Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
- (d) Protect public health and safety.

Recognition of EMS Personnel Licensure Compact (REPLICA)

Interstate Commission for EMS Personnel Practice

Rulemaking Summary

Overview

- The Interstate Commission for EMS Personnel Practice has been established under Section 10 of REPLICA and will serve as the governing body for the Compact. The Commission has rulemaking authority granted under Section 12 of the Compact.
- New rules and/or amendments that are proposed must **directly** relate to the authority of the Compact. As such, the Commission can only write rules that facilitate the implementation, administration, and operations of the Compact.
- REPLICA state EMS officials already engage in rulemaking as part of their roles as state EMS regulators.
- Each REPLICA state will have **one** delegate on the Commission and one vote on each matter before the body.
- REPLICA rulemaking is a public process, carried out by public officials representing member states.

Scope and Authority:

- Compact Commissions can only write rules directly tied to the compact's authority in each state's adopted statute. REPLICA rulemaking is specific to cross-border practice between member states.
- The Compact requirements for rulemaking are in Section 12 and include public posting procedures, submission of comment(s), and testimony (written and verbal), procedures for conducting public hearings, Commission deliberation, and voting.
- Compact rules should only provide clarity to the terms of the statute in the areas of operations, administration, and implementation of the Compact. For example: How member states will verify that applicants for initial licensure have met the requirement for the FBI compliant background check with biometric data in accordance with Section 3., Subsection B.4.
- A Rules Committee needs to be established after bylaws are adopted by the Commission at their inaugural meeting (October 7-8, 017).
- Drafts rules for Commission consideration, voting, and adoption are prepared and vetted by the Rules Committee.

Rulemaking Process:

- A proposal for a new rule or amendment to a rule can be generated by either the Commission or by a standing committee of the Commission.
- The Rules Committee will draft language for a proposed rule or amendment to rule, obtain legal review, and distribute for comment and input from the Commissioners before initiating the formal rulemaking process, including setting a public hearing date, and conducting a public hearing.
- Rules and/or amendments to the rules shall be adopted at a regular or special meeting of the Commission.
- Any proposed changes to the rules will be subject to a public hearing process. Once a date is established for a public hearing, notice must be published sixty (60) days in advance. The notice shall include the Commission's website and as required within each member state in accordance with their respective rulemaking procedures.
- The public notice will include the date, time, location, content of the rule, and the manner by which interested parties/the public may submit comments.
- At the public hearing, anyone may provide comments verbally or in writing for consideration by the Commission members. Comments and testimony may also be provided using contemporary technology.
- New rules and/or amendments will be discussed and acted upon at Commission meetings which are open to the public, and require a simple majority decision.
- The Commission and/or Commission staff shall prepare a document that explains each new rule and/or amendment.
- The Commission shall establish an adoption date for rules and/or amendments.

RECOGNITION OF EMS PERSONNEL LICENSURE INTERSTATE COMPACT (REPLICA)

Interstate Commission for EMS Personnel Practice

Format for Conducting Public Hearings

Description: explanation, nature, and scope – restrictions to the hearing process

- i. Presentation: (staff and/or Commission)
- ii. Opening of the Public Hearing: gavel hearing to order, accept testimony, verbal, written – enter into record *
- iii. Questions & Comments by the Public: phone, computer or in person*
- iv. Closing of the Public Hearing: gavel to close, Commission deliberation & action, including voting

*3 minutes per Roberts Rules

Majority Vote (as of 9/18/2017) 7/12

Sign in for all hearings and meetings (same content as below)

Name for the record, representing what organization, association or self

Section 12. Rulemaking: Applicable References

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

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

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

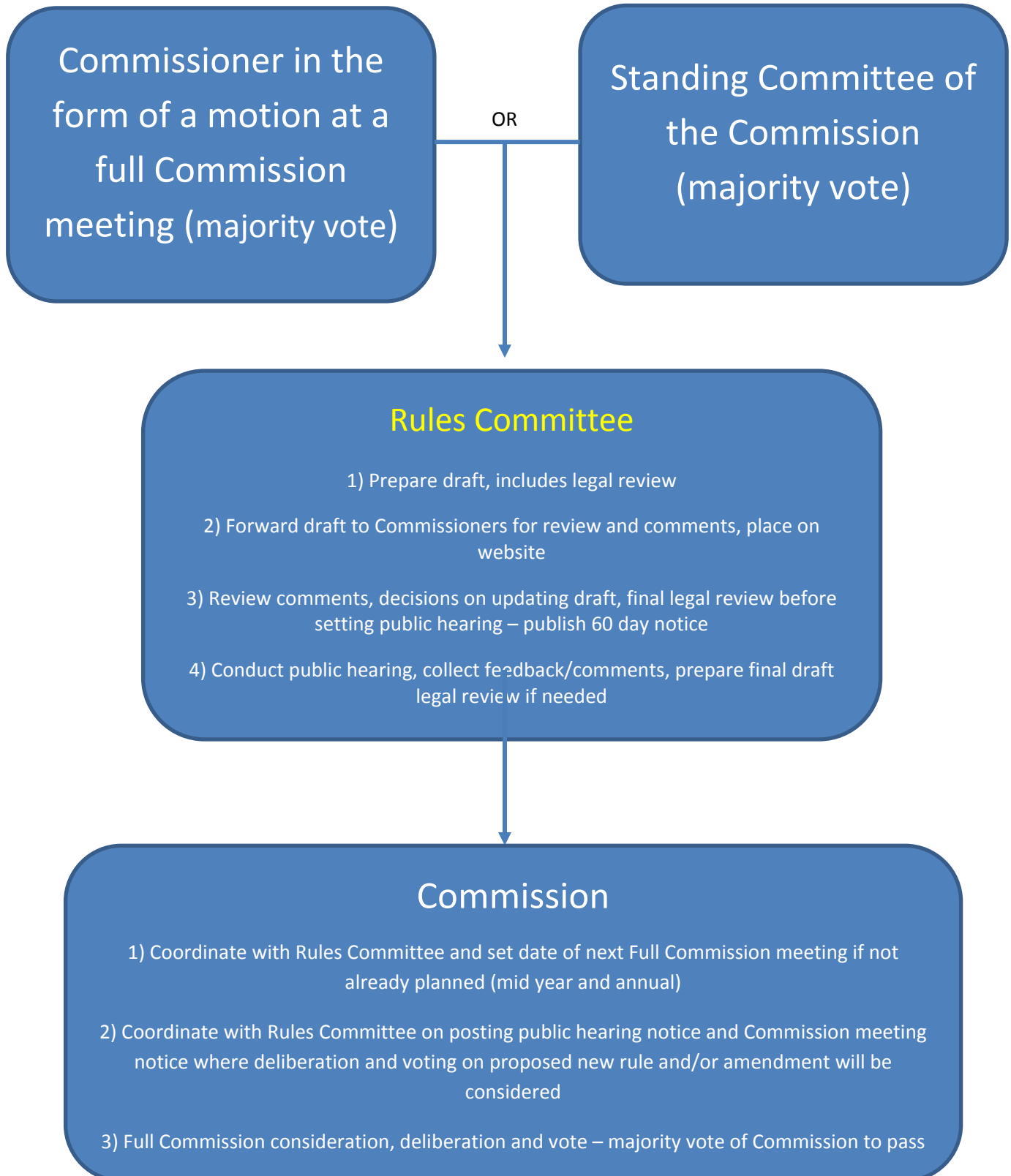
H. 4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

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

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

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

New rules and/or amendments proposed to existing rules





REPLICA - MODEL LEGISLATION

**RECOGNITION OF EMERGENCY MEDICAL SERVICES PERSONNEL LICENSURE
INTERSTATE COMPACT
("REPLICA")**

1 **EMS PERSONNEL LICENSURE INTERSTATE COMPACT**

2 **SECTION 1. PURPOSE**

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

- 13 1. Increase public access to EMS personnel;
- 14 2. Enhance the states’ ability to protect the public’s health and safety, especially patient
15 safety;
- 16 3. Encourage the cooperation of member states in the areas of EMS personnel licensure
17 and regulation;
- 18 4. Support licensing of military members who are separating from an active duty tour
19 and their spouses;
- 20 5. Facilitate the exchange of information between member states regarding EMS
21 personnel licensure, adverse action and significant investigatory information;
- 22 6. Promote compliance with the laws governing EMS personnel practice in each
23 member state; and

24 7. Invest all member states with the authority to hold EMS personnel accountable
25 through the mutual recognition of member state licenses.

26 **SECTION 2. DEFINITIONS**

27 In this compact:

28 A. “Advanced Emergency Medical Technician (AEMT)” means: an individual licensed
29 with cognitive knowledge and a scope of practice that corresponds to that level in the National
30 EMS Education Standards and National EMS Scope of Practice Model.

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

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

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

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

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

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

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

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

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

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

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

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

59 N. “Restricted” means: the outcome of an adverse action that limits a license or the
60 privilege to practice.

61 O. “Rule” means: a written statement by the interstate Commission promulgated
62 pursuant to Section 12 of this compact that is of general applicability; implements, interprets, or
63 prescribes a policy or provision of the compact; or is an organizational, procedural, or practice
64 requirement of the Commission and has the force and effect of statutory law in a member state
65 and includes the amendment, repeal, or suspension of an existing rule.

66 P. “Scope of Practice” means: defined parameters of various duties or services that may
67 be provided by an individual with specific credentials. Whether regulated by rule, statute, or
68 court decision, it tends to represent the limits of services an individual may perform.

69 Q. “Significant Investigatory Information” means:

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

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

77 R. “State” means: means any state, commonwealth, district, or territory of the United
78 States.

79 S. “State EMS Authority” means: the board, office, or other agency with the legislative
80 mandate to license EMS personnel.

81 **SECTION 3. HOME STATE LICENSURE**

82 A. Any member state in which an individual holds a current license shall be deemed a
83 home state for purposes of this compact.

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

87 C. A home state’s license authorizes an individual to practice in a remote state under the
88 privilege to practice only if the home state:

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

- 92 2. Has a mechanism in place for receiving and investigating complaints about
93 individuals;
- 94 3. Notifies the Commission, in compliance with the terms herein, of any adverse
95 action or significant investigatory information regarding an individual;
- 96 4. No later than five years after activation of the Compact, requires a criminal
97 background check of all applicants for initial licensure, including the use of the results of
98 fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau
99 of Investigation with the exception of federal employees who have suitability determination in
100 accordance with US CFR §731.202 and submit documentation of such as promulgated in the
101 rules of the Commission; and
- 102 5. Complies with the rules of the Commission.

103 **SECTION 4. COMPACT PRIVILEGE TO PRACTICE**

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

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

- 108 1. Be at least 18 years of age;
- 109 2. Possess a current unrestricted license in a member state as an EMT, AEMT,
110 paramedic, or state recognized and licensed level with a scope of practice and authority between
111 EMT and paramedic; and
- 112 3. Practice under the supervision of a medical director.

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

116 D. Except as provided in Section 4 subsection C, an individual practicing in a remote
117 state will be subject to the remote state's authority and laws. A remote state may, in accordance
118 with due process and that state's laws, restrict, suspend, or revoke an individual's privilege to
119 practice in the remote state and may take any other necessary actions to protect the health and
120 safety of its citizens. If a remote state takes action it shall promptly notify the home state and the
121 Commission.

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

125 F. If an individual's privilege to practice in any remote state is restricted, suspended, or
126 revoked the individual shall not be eligible to practice in any remote state until the individual's
127 privilege to practice is restored.

128 **SECTION 5. CONDITIONS OF PRACTICE IN A REMOTE STATE**

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

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

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

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

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

140 5. Other conditions as determined by rules promulgated by the commission.

141 **SECTION 6. RELATIONSHIP TO EMERGENCY MANAGEMENT**
142 **ASSISTANCE COMPACT**

143 Upon a member state’s governor’s declaration of a state of emergency or disaster that activates
144 the Emergency Management Assistance Compact (EMAC), all relevant terms and provisions of
145 EMAC shall apply and to the extent any terms or provisions of this Compact conflicts with
146 EMAC, the terms of EMAC shall prevail with respect to any individual practicing in the remote
147 state in response to such declaration.

148 **SECTION 7. VETERANS, SERVICE MEMBERS SEPARATING FROM ACTIVE**
149 **DUTY MILITARY, AND THEIR SPOUSES**

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

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

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

160 **SECTION 8. ADVERSE ACTIONS**

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

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

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

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

172 C. A member state shall report adverse actions and any occurrences that the individual's
173 compact privileges are restricted, suspended, or revoked to the Commission in accordance with
174 the rules of the Commission.

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

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

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

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

190 **SECTION 9. ADDITIONAL POWERS INVESTED IN A MEMBER STATE'S**
191 **EMS AUTHORITY**

192 A member state's EMS authority, in addition to any other powers granted under state law, is
193 authorized under this compact to:

194 1. Issue subpoenas for both hearings and investigations that require the attendance and
195 testimony of witnesses and the production of evidence. Subpoenas issued by a member state's
196 EMS authority for the attendance and testimony of witnesses, and/or the production of evidence
197 from another member state, shall be enforced in the remote state by any court of competent
198 jurisdiction, according to that court's practice and procedure in considering subpoenas issued in
199 its own proceedings. The issuing state EMS authority shall pay any witness fees, travel expenses,
200 mileage, and other fees required by the service statutes of the state where the witnesses and/or
201 evidence are located; and

202 2. Issue cease and desist orders to restrict, suspend, or revoke an individual’s privilege
203 to practice in the state.

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

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

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

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

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

214 B. Membership, Voting, and Meetings

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

223 2. Each delegate shall be entitled to one (1) vote with regard to the promulgation of
224 rules and creation of bylaws and shall otherwise have an opportunity to participate in the

225 business and affairs of the Commission. A delegate shall vote in person or by such other means
226 as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by
227 telephone or other means of communication.

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

230 4. All meetings shall be open to the public, and public notice of meetings shall be
231 given in the same manner as required under the rulemaking provisions in Section XII.

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

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

235 b. The employment, compensation, discipline or other personnel matters,

236 practices or procedures related to specific employees or other matters related to the

237 Commission's internal personnel practices and procedures;

238 c. Current, threatened, or reasonably anticipated litigation;

239 d. Negotiation of contracts for the purchase or sale of goods, services, or real

240 estate;

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

242 f. Disclosure of trade secrets or commercial or financial information that is

243 privileged or confidential;

244 g. Disclosure of information of a personal nature where disclosure would

245 constitute a clearly unwarranted invasion of personal privacy;

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

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

250 j. Matters specifically exempted from disclosure by federal or member state
251 statute.

252 6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the
253 Commission's legal counsel or designee shall certify that the meeting may be closed and shall
254 reference each relevant exempting provision. The Commission shall keep minutes that fully and
255 clearly describe all matters discussed in a meeting and shall provide a full and accurate summary
256 of actions taken, and the reasons therefore, including a description of the views expressed. All
257 documents considered in connection with an action shall be identified in such minutes. All
258 minutes and documents of a closed meeting shall remain under seal, subject to release by a
259 majority vote of the Commission or order of a court of competent jurisdiction.

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

263 1. Establishing the fiscal year of the Commission;

264 2. Providing reasonable standards and procedures:

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

266 b. governing any general or specific delegation of any authority or function of
267 the Commission;

268 3. Providing reasonable procedures for calling and conducting meetings of the
269 Commission, ensuring reasonable advance notice of all meetings, and providing an opportunity

270 for attendance of such meetings by interested parties, with enumerated exceptions designed to
271 protect the public's interest, the privacy of individuals, and proprietary information, including
272 trade secrets. The Commission may meet in closed session only after a majority of the
273 membership votes to close a meeting in whole or in part. As soon as practicable, the Commission
274 must make public a copy of the vote to close the meeting revealing the vote of each member with
275 no proxy votes allowed;

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

278 5. Providing reasonable standards and procedures for the establishment of the
279 personnel policies and programs of the Commission. Notwithstanding any civil service or other
280 similar laws of any member state, the bylaws shall exclusively govern the personnel policies and
281 programs of the Commission;

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

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

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

290 9. The Commission shall maintain its financial records in accordance with the
291 bylaws.

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

294 D. The Commission shall have the following powers:

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

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

302 3. To purchase and maintain insurance and bonds;

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

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

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

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

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

318 9. To establish a budget and make expenditures;

319 10. To borrow money;

320 11. To appoint committees, including advisory committees comprised of members,
321 state regulators, state legislators or their representatives, and consumer representatives, and such
322 other interested persons as may be designated in this compact and the bylaws;

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

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

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

329 E. Financing of the Commission

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

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

334 3. The Commission may levy on and collect an annual assessment from each
335 member state or impose fees on other parties to cover the cost of the operations and activities of

336 the Commission and its staff, which must be in a total amount sufficient to cover its annual
337 budget as approved each year for which revenue is not provided by other sources. The aggregate
338 annual assessment amount shall be allocated based upon a formula to be determined by the
339 Commission, which shall promulgate a rule binding upon all member states.

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

343 5. The Commission shall keep accurate accounts of all receipts and disbursements.
344 The receipts and disbursements of the Commission shall be subject to the audit and accounting
345 procedures established under its bylaws. However, all receipts and disbursements of funds
346 handled by the Commission shall be audited yearly by a certified or licensed public accountant,
347 and the report of the audit shall be included in and become part of the annual report of the
348 Commission.

349 F. Qualified Immunity, Defense, and Indemnification

350 1. The members, officers, executive director, employees and representatives of the
351 Commission shall be immune from suit and liability, either personally or in their official
352 capacity, for any claim for damage to or loss of property or personal injury or other civil liability
353 caused by or arising out of any actual or alleged act, error or omission that occurred, or that the
354 person against whom the claim is made had a reasonable basis for believing occurred within the
355 scope of Commission employment, duties or responsibilities; provided that nothing in this
356 paragraph shall be construed to protect any such person from suit and/or liability for any damage,
357 loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

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

366 3. The Commission shall indemnify and hold harmless any member, officer,
367 executive director, employee, or representative of the Commission for the amount of any
368 settlement or judgment obtained against that person arising out of any actual or alleged act, error
369 or omission that occurred within the scope of Commission employment, duties, or
370 responsibilities, or that such person had a reasonable basis for believing occurred within the
371 scope of Commission employment, duties, or responsibilities, provided that the actual or alleged
372 act, error, or omission did not result from the intentional or willful or wanton misconduct of that
373 person.

374 **SECTION 11. COORDINATED DATABASE**

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

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

- 381 1. Identifying information;
- 382 2. Licensure data;
- 383 3. Significant investigatory information;
- 384 4. Adverse actions against an individual's license;
- 385 5. An indicator that an individual's privilege to practice is restricted, suspended or
- 386 revoked;
- 387 6. Non-confidential information related to alternative program participation;
- 388 7. Any denial of application for licensure, and the reason(s) for such denial; and
- 389 8. Other information that may facilitate the administration of this Compact, as
- 390 determined by the rules of the Commission.

391 C. The coordinated database administrator shall promptly notify all member states of

392 any adverse action taken against, or significant investigative information on, any individual in a

393 member state.

394 D. Member states contributing information to the coordinated database may designate

395 information that may not be shared with the public without the express permission of the

396 contributing state.

397 E. Any information submitted to the coordinated database that is subsequently required

398 to be expunged by the laws of the member state contributing the information shall be removed

399 from the coordinated database.

400 **SECTION 12. RULEMAKING**

401 A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth

402 in this Section and the rules adopted thereunder. Rules and amendments shall become binding as

403 of the date specified in each rule or amendment.

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

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

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

- 412 1. On the website of the Commission; and
- 413 2. On the website of each member state EMS authority or the publication in which
414 each state would otherwise publish proposed rules.

415 E. The Notice of Proposed Rulemaking shall include:

- 416 1. The proposed time, date, and location of the meeting in which the rule will be
417 considered and voted upon;
- 418 2. The text of the proposed rule or amendment and the reason for the proposed rule;
- 419 3. A request for comments on the proposed rule from any interested person; and
- 420 4. The manner in which interested persons may submit notice to the Commission of
421 their intention to attend the public hearing and any written comments.

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

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

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

427 2. A governmental subdivision or agency; or

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

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

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

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

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

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

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

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

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

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

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

464 M. The Commission or an authorized committee of the Commission may direct revisions
465 to a previously adopted rule or amendment for purposes of correcting typographical errors, errors
466 in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be
467 posted on the website of the Commission. The revision shall be subject to challenge by any
468 person for a period of thirty (30) days after posting. The revision may be challenged only on
469 grounds that the revision results in a material change to a rule. A challenge shall be made in
470 writing, and delivered to the chair of the Commission prior to the end of the notice period. If no
471 challenge is made, the revision will take effect without further action. If the revision is
472 challenged, the revision may not take effect without the approval of the Commission.

473 **SECTION 13. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

474 A. Oversight

475 1. The executive, legislative, and judicial branches of state government in each
476 member state shall enforce this compact and take all actions necessary and appropriate to
477 effectuate the compact’s purposes and intent. The provisions of this compact and the rules
478 promulgated hereunder shall have standing as statutory law.

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

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

486 B. Default, Technical Assistance, and Termination

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

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

493 b. Provide remedial training and specific technical assistance regarding the
494 default.

495 2. If a state in default fails to cure the default, the defaulting state may be terminated
496 from the Compact upon an affirmative vote of a majority of the member states, and all rights,

497 privileges and benefits conferred by this compact may be terminated on the effective date of
498 termination. A cure of the default does not relieve the offending state of obligations or liabilities
499 incurred during the period of default.

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

504 4. A state that has been terminated is responsible for all assessments, obligations,
505 and liabilities incurred through the effective date of termination, including obligations that
506 extend beyond the effective date of termination.

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

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

514 C. Dispute Resolution

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

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

520 D. Enforcement

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

523 2. By majority vote, the Commission may initiate legal action in the United States
524 District Court for the District of Columbia or the federal district where the Commission has its
525 principal offices against a member state in default to enforce compliance with the provisions of
526 the compact and its promulgated rules and bylaws. The relief sought may include both injunctive
527 relief and damages. In the event judicial enforcement is necessary, the prevailing member shall
528 be awarded all costs of such litigation, including reasonable attorney's fees.

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

531 **SECTION 14. DATE OF IMPLEMENTATION OF THE INTERSTATE**
532 **COMMISSION FOR EMS PERSONNEL PRACTICE AND ASSOCIATED**
533 **RULES, WITHDRAWAL, AND AMENDMENT**

534 A. The compact shall come into effect on the date on which the compact statute is
535 enacted into law in the tenth member state. The provisions, which become effective at that time,
536 shall be limited to the powers granted to the Commission relating to assembly and the
537 promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers
538 necessary to the implementation and administration of the compact.

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

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

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

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

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

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

556 **SECTION 15. CONSTRUCTION AND SEVERABILITY**

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



RESOURCES – National Center for Interstate Compacts

Compact Governance
Compacts as Tools of the Game
Compact FAQ's



Developing the Right Structure for Success

Compact Governance



Modern compacts need strong governance and administration to successfully address state regulatory issues

The interstate compact tool is an ideal mechanism for addressing many of today's multistate policy issues. Long a tool reserved for simple interstate agreements, the modern interstate compact is taking on regulatory issues at the regional and national levels and facilitating the development of the states collective voice on established and emerging issues.

The usefulness of interstate compacts is demonstrated recently with the development of two agreements. The Interstate Insurance Product Regulation Compact allows for national, uniform approval of new insurance products among member states, rather than having to obtain licensing in each state individually. Another is the Interstate Compact for Adult Offender Supervision, which regulates the movement of adult parolees and probationers across state lines into jurisdictions other than where they were sentenced.

While the compact language itself is crucial to the success of the contract, modern regulatory compacts often expand upon the basic agreement with additional governing and administrative structures. Traditional interstate compacts offer few details as to the issues of governance and administration. This is not surprising given the spirit and reciprocal nature in which they were intended to operate. However, as the administrative nature of state government has evolved over the last half-century, it has become necessary to develop structures and organizational procedures that transcend one states internal operation and apply uniformly to all member jurisdictions of interstate agreements. As more issues are addressed via regional and national regulatory compacts it becomes apparent that an officially sanctioned governing body is necessary to ensure accountability, training, compliance, enforcement, rulemaking, information gathering and sharing and overall staffing in order to make the agreement a success.

When developing the overall interstate regulatory mechanism, one may look at it as a human body—the compact itself is the skeleton, the rules are the muscles and the bylaws are the skin. The compact should contain the minimum basics upon which the compact needs to operate, both in terms of the agreement between states and the operation of a governing body. The compact does not need to address every conceivable eventuality, nor should it. Its purpose is to provide the framework upon which to build. The rules are the actuators of the compact, containing the details of state interaction, how transfers will occur, what standards and practices will be followed, forms used, timelines established, etc. By using the compact as the broad framework, the rules can be adapted and adjusted as needed throughout the life of the compact without the need to go back each time for legislative approval from the member states, subject to the legislatively delegated authority. Finally, the bylaws of the governing body detail how business will be conducted in a timely and orderly manner without unraveling.

Outlined within are key factors when considering the structure of a compact and its long-term administration and operation.

Governing Body



As a new regulatory compact is developed or an existing one revised, it will need to establish an unambiguous third party organization that will serve as its governing body. The body may enjoy full-time staff support and be governed by representatives of the member jurisdictions. The governing body should be clearly detailed in the compact language with specific details provided on:

- Governing body creation and name;
- Governing body membership;
- Ex-officio membership on the governing body;
- Allocation of votes (i.e. one vote per member jurisdiction);
- Voting majority;
- Meeting frequency of the governing body (i.e. to establish minimum);
- Leadership and governing body structure (i.e. executive committee, leadership positions, etc.);
- Other voting and business procedures;
- Records maintenance and public access;
- Public notice requirements for meetings and governing board action;
- Conditions under which a meeting of the governing body may be closed; and
- Data gathering and sharing requirements (i.e. information sharing system).

The agreement should also go on to describe the specific powers and duties of the governing body:

- Conduct dispute resolution;
- Promulgate rules;
- Oversee, supervise and coordinate operational issues between states;
- Enforce compliance with compact and rule provisions;
- Establish and maintain offices;
- Purchase and maintain insurance;
- Borrow, accept, hire or contract for personnel services;
- Establish and appoint committees;
- Hire staff;
- Elect and appoint officers and employees;
- Accept donations of money, equipment, etc.; lease, purchase, etc.; sell, convey, mortgage, etc.; make expenditures; in order to facilitate the work of the governing body;
- Establish a budget;
- Collect dues;
- Sue and be sued;
- Adopt bylaws and a seal;
- Report annually to member states and other specific groups;
- Coordinate training and education;
- Establish uniform standards for collecting and exchanging data; and
- Perform other functions as may be necessary to execute the provision of the compact and its rules.

The compact should further specify the organization and operation of the established governing body, with specific reference to:

- Leadership
- Officers
- Committees
- Staff
- Indemnity

Finally, drafters may consider the development of an advisory body in each state to promote the compacts interests and provide oversight and advocacy on compact issues. Referred to as a “State Council” in other compacts, this body may be granted a range of powers and authority including oversight, advocacy, and policy and procedural development for the state.

Bylaws

The governing body must develop and maintain bylaws under which its business will be organized and conducted. At a minimum, the bylaws of the governing body will address:

- Requirement to adopt bylaws;
- Establish a fiscal year;
- Establish an executive committee and other committees as appropriate;
- Conduct of meetings;
- Establish titles and responsibilities of officers and staff;
- Establish provisions for conducting business;
- Provide transition rules; and
- Establish standards and procedures for compliance and technical assistance and training.

Committees

The governing body will need to establish committees in order to conduct business. While an executive committee will be specified in the compact and the bylaws, other committees will be allowed for and may be further specified in the bylaws. Membership and appointment to committees will be addressed in the bylaws. At a minimum, the governing body should consider the following committees:

- a. **Compliance**, responsible for monitoring the compliance by member states with the terms of the compact and the rules, and for developing appropriate enforcement procedures for the governing body's consideration.
- b. **Information Technology / Information Sharing**, responsible for identifying and developing appropriate information technology resources to facilitate the transfer of issue information and the administration of compact activities.
- c. **Finance**, responsible for monitoring the governing body's budget and financial practices, including the collection and expenditure of revenues and for developing recommendations for the membership's consideration.
- d. **Rules**, responsible for administering the rulemaking procedures and for developing proposed rules for the governing body's consideration.
- e. **Training**, responsible for developing educational resources and training materials for use in the member states to help ensure awareness of, and compliance with, the terms of the compact and the rules.

Additionally, the governing body may need other, policy specific committees in order to adequately conduct business, such as an Intergovernmental Affairs Committee to coordinate efforts with federal and local agencies as well as other interstate agreements.



Rules and Rulemaking

In addition to the compact language the governing body will need to develop and maintain a detailed set of rules to govern the activities of the compact. If the compact language is the skeleton, the rules are the muscles—while they rely on the compact for authority, they are the true actuators of compact activity. The compact language will, at a minimum, set forth the rulemaking procedures and requirements. These will include:

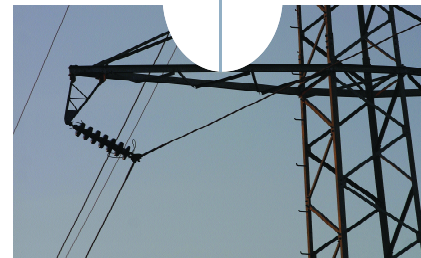
- Authority to promulgate rules;
- Establish administrative procedures by which rules will be adopted, noticed and maintained;
- Noticing requirements;
- Publishing requirements;
- Public hearing requirements;
- Minority report / opinion requirements;
- Provide for Judicial Review, if requested within a specific time;
- Establish process for formal rule rejection by member states;
- Authorize transition rules; and
- Provide for the development and adoption of emergency rules.

Finance

Drafters need to consider two different aspects of financing: state payment for in-state compact activities; and financing of the governing body, its staff and activities. Specific issues to be addressed include:

- Authorization to pay expenses;
- Authorization to levy a state assessment;
- Provision to not incur obligations beyond reasonable financial abilities to pay;
- Provision to not pledge the credit of the member states;
- Accounting requirements; and
- State assessment formula (if needed).

While these considerations are not required for every interstate agreement, as the compact tool is used more often to address increasingly regulatory issues, structures and considerations like those outlined here should be considered to ensure long-term success of the multistate compact.



10 Frequently Asked Questions



1

What is an interstate compact?

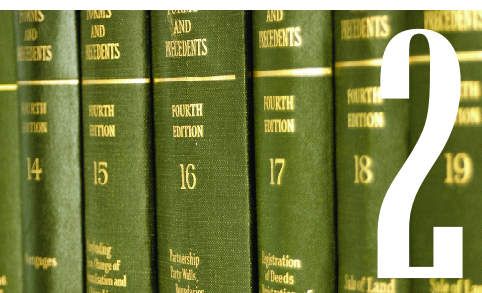
Interstate compacts are contracts between two or more states creating an agreement on a particular policy issue, adopting a certain standard or cooperating on regional or national matters.

Interstate compacts are the most powerful, durable, and adaptive tools for ensuring cooperative action among the states. Unlike federally imposed mandates that often dictate unfunded and rigid requirements, interstate compacts provide a state-developed structure for collaborative and dynamic action, while building consensus among the states.

The very nature of an interstate compact makes it an ideal tool to meet the demand for cooperative state action: developing and enforcing stringent standards, while providing an adaptive structure that, under a modern compact framework, can evolve to meet new and increased demands over time.

General purposes for creating an interstate compact include:

- Establish a formal, legal relationship among states to address common problems or promote a common agenda.
- Create independent, multistate governmental authorities (e.g., commissions) that can address issues more effectively than a state agency acting independently, or when no state has the authority to act unilaterally.
- Establish uniform guidelines, standards, or procedures for agencies in the compact's member states.
- Create economies of scale to reduce administrative and other costs.
- Respond to national priorities in consultation or in partnership with the federal government.
- Retain state sovereignty in matters traditionally reserved for the states.
- Settle interstate disputes.



2

How prevalent are interstate compacts?

More than 200 interstate compacts exist today. On average, a state belongs to 25 interstate compacts.

There are 22 compacts that are national in scope, several with 35 or more member states and independent administrative commissions. More than 30 compacts are regional in scope, with 8 or more member states.



What types of interstate compacts exist?

Although there are many types of interstate compacts, they can generally be divided into three camps:

- a. **Border Compacts:** agreements between two or more states that establish or alter the boundaries of a state. Once adopted by the states and approved by Congress, such compacts permanently alter the boundaries of the state and can only be undone by a subsequent compact approved by Congress or the repeal of the compact with Congress's approval. Examples include the Virginia-Tennessee Boundary Agreement of 1803, Arizona-California Boundary Compact of 1963, the Missouri-Nebraska Compact of 1990, and the Virginia-West Virginia Boundary Compact of 1998.
- b. **Advisory Compacts:** agreements between two or more states that create study commissions. The purpose of the commission is to examine a problem and report to the respective states on their findings. Such compacts do not result in any change in the state's boundaries nor do they create ongoing administrative agencies with regulatory authority.
- c. **Regulatory Compacts:** broadest and largest category of interstate compacts may be called "regulatory" or "administrative" compacts. Such compacts are a development of the 20th century and embrace wide-ranging topics including regional planning and development, crime control, agriculture, flood control, water resource management, education, mental health, juvenile delinquency, child support, and so forth. Regulatory compacts create ongoing administrative agencies whose rules and regulations may be binding on the states to the extent authorized by the compact. Many regulatory compacts require congressional consent to be effective because they regulate areas that impact one of congress's enumerated powers, such as interstate commerce, navigable streams, and extradition.



What are the advantages of an interstate compact?

The emergence of broad public policy issues that ignore state boundaries and the principles of federalism have presented new governing challenges to both state and federal authorities. Complex regional and national problems have shown little respect for the dual lines of federalism or the geographical boundaries of states. Thus, interstate compacts have reemerged not only as devices for adjusting interstate relations but also for governing the nation.

Interstate compacts provide an effective solution in addressing suprastate problems. Compacts enable the states—in their sovereign capacity—to act jointly and collectively, generally outside the confines of the federal legislative or regulatory process while respecting the view of Congress on the appropriateness of joint action. Interstate compacts can effectively preempt federal interference into matters that are traditionally within the purview of the states and yet which have regional or national implications.

Unlike federal actions that impose unilateral, rigid mandates, compacts afford states the opportunity to develop dynamic, self regulatory systems over which the party states can maintain control through a coordinated legislative and administrative process. Compacts enable the states to develop adaptive structures that can evolve to meet new and increased challenges that naturally arise over time.

What are the disadvantages of an interstate compact?

Interstate compacts may often require a great deal of time to both develop and implement. While recent interstate compact efforts have met with success in a matter of a few years, some interstate compacts have required decades to reach critical mass.

Further, the ceding of traditional state sovereignty, particularly as required by several modern administrative compacts may be perceived as a disadvantage. The very purpose



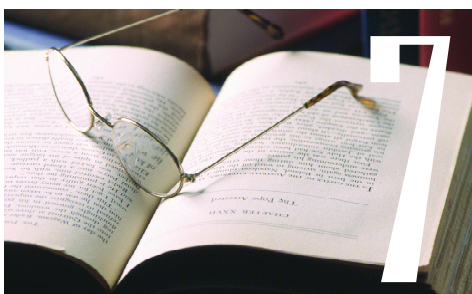
of an interstate compact is to provide for the collective allocation of governing authority between and among party states, which does not allow much room for individualism. The requirement of substantive “sameness” prevents party states from passing dissimilar enactments.

As the balance of power continues to realign in our federalist system, states may only be able to preserve their sovereign authority over interstate problems to the extent that they share their sovereignty and work together cooperatively through interstate compacts.



How is an interstate compact created?

Compacts are essentially contracts between or among states. To be enforceable, they must satisfy the customary requirements for valid contracts, including the notions of offer and acceptance. An offer is made when one state, usually by statute, adopts the terms of a compact requiring approval by one or more other states to become effective. Other states accept the offer by adopting identical compact language. Once the required number of states has adopted the pact, the “contract” among them is valid and becomes effective as provided. The only other potential requirement is congressional consent.



What might the compact development process look like?

The development of any interstate compact should be a state driven and state championed solution to a policy issue. Outlined below are key steps to the development process of a regulatory compact, as experienced by CSG. These should be viewed as examples and can be, based on the issue area, customized as needed.

- **Advisory Group:** Composed of state officials and other critical stakeholders, an Advisory Group examines the realm of the problem, suggests possible solutions and makes recommendations as to the structure of the interstate compact. Typically, an Advisory Group is composed of approximately 20 individuals, each representative of various groups and states. An Advisory Group would likely meet one or two times over a period of two to three months, with their work culminating in a set of recommendations as to what the final compact product should look like.
- **Drafting Team:** While an Advisory Group enjoyed thinking about the issue from a macro-level, a Drafting Team pulls the thoughts, ideas and suggestions of the Advisory Group into a draft compact. The Drafting Team, composed of 5 to 8 compact and issue experts, will craft the recommendations, as well as their own thoughts and expertise, into a draft compact that will be circulated to state officials for comment. The document will also be open for comments from a wide swath of stakeholders and the public. Following these comment periods, the compact will be revised as needed and released finally back to an Advisory Group for final review to ensure it meets the original spirit of the group’s recommendations. A Drafting Team would meet three to four times over a period of 10–14 months, with significant staff work and support between sessions.
- **Education:** Once completed, the interstate compact would be available to states for legislative approval. During this phase of the initiative, state-by-state technical assistance and on-site education are keys to rapid success. A majority of state legislators have limited knowledge about interstate compacts and with such a major issue being addressed, leg work on the ground in each state is crucial. Previous interstate compact efforts have convened end-of-the-year legislative briefings for state officials to educate them on the solutions provided by the interstate compact. Education occurs before and during state legislative sessions.
- **Enactment:** A majority of interstate compacts did not become active right away. Rather, interstate compacts typically activate when triggered by a pre-set number of states joining the compact. For instance, the Interstate Compact for Adult Offender Supervision (Adult Compact) required 35 state enactments before it could become active. This number was chosen for two reasons. A membership of 35 ensures that a majority of states are in favor of the agreement and that a new compact would not

create two conflicting systems. Moreover, a sense of urgency for states was created because the first 35 jurisdictions to join would meet soon thereafter and fashion the operating rules of the compact. Most interstate compacts take up to 7 years to reach critical mass. However the most recent effort managed by CSG, the Adult Compact, reached critical mass in just 30 months from its first date of introduction in 2000.

- **Transition:** Following enactment by the required minimum number of states, the new compact becomes operational and, dependent upon the administrative structure placed in the compact, goes through standard start-up activities such as state notification, planning for the first commission or state-to-state meetings and, if authorized by the compact, hiring of staff to oversee the agreement and its requirements. A critical component of the transition will be the development of rules, regulations, forms, standards, etc. by which the compact will need to operate. Typically, transition activities run for between 12 and 18 months before the compact body is independently running.

What does a modern interstate compact look like, structurally?

When developing the interstate compact mechanism, one needs to look at it as a human body—the compact itself is the skeleton, the rules, regulations and forms are the muscles and the bylaws are the skin. The compact should contain the minimum basics upon which it needs to operate, in terms of the agreement between states and the operation of a governing body. By using the compact as the broad framework, the rules can be adapted and adjusted as needed throughout the life the compact without the need to go back each time for legislative approval from the member states, subject to the legislatively delegated authority.

Will my states constitution permit the creation and/or joining of a compact?

Compact language is usually drafted with state constitutional requirements common to most state constitutions such as separation of powers, delegation of power, and debt limitations in mind. The validity of the state authority to enter into compacts and potentially delegate authority to an interstate agency has been specifically recognized and unanimously upheld by the U.S. Supreme Court in *West Virginia v. Sims*, 341 U.S. 22 (1951).

How much does it cost to develop and operate an interstate compact?

No two compacts are alike and therefore the issues addressed by one compact require different development considerations than do others. Some compacts have enjoyed massive federal support, such as the Adult Compact which received more than \$1.2 million from the National Institute of Corrections. However, a more recent compact revision of the Interstate Compact for the Placement of Children will have resulted in a final compact in 10 months for approximately \$100,000 (not counting education and transition costs). Cost depends largely upon the desired timelines, the level of external stakeholder involvement and the level of education desired within each state.





State-to-State Teamwork



Compacts as a tool of the game

As state governments increasingly face similar policy problems that rarely end at a state's borders, the search for effective policy responses often does.

One weapon in the states' arsenal is the interstate compact—an historic cooperative tool allowing states to work together to solve their mutual policy dilemmas while reinforcing the role of the states in tackling regional and national issues.

As states struggle with emerging policy issues such as prescription drug pricing, increased energy production and distribution, refined and updated tax systems and the refurbishment of an aging infrastructure, the interstate compact may well prove to be the answer to these and other policy questions.

The Nature of Interstate Compacts

Compacts are simply formal agreements between two or more states that bind them to the compacts' provisions, just as a contract binds two or more parties in a business deal. As such, compacts are subject to the principles of contract law and are protected by the constitution's prohibition against laws that impair the obligations of contracts.

That means that compacting states are bound to observe the terms of their agreements, even if those terms are inconsistent with other state laws. In short, compacts between states are somewhat like treaties between nations. Compacts have the force and effect of statutory law and take precedence over conflicting state laws, regardless of when those laws are enacted.

Unlike treaties, however, compacts are not dependent solely upon the good will of the parties. Once enacted, compacts may not be unilaterally renounced by a member state, except as provided by the compacts themselves. Moreover, Congress and the courts can compel compliance with the terms of interstate compacts. That's why compacts are considered one of the most effective means of ensuring interstate cooperation.

History of Interstate Compacts

Compacts were seldom used until the 20th century. Between 1783 and 1920, states approved just 36 compacts, most of which were used to settle boundary disputes. But in the last 75 years, more than 150 compacts have been created, most since the end of World War II.

The purpose of compacts ranges from implementing common laws to exchanging information about similar problems. They apply to everything from conservation and



resource management to civil defense, emergency management, law enforcement, transportation, and taxes. Other compact subjects include education, energy, mental health, workers compensation and low-level radioactive waste.

Some compacts authorize the establishment of multistate regulatory bodies. The first and most famous of these is the New York-New Jersey Port Authority, which arose from a 1921 compact between the two states. But other agreements are simply intended to establish uniform regulations without creating new agencies.

In recent years, compacts have grown in scope and number. Today, many are designed for regional or national participation, whereas the compacts of old were usually bi-state agreements.

Recent efforts include the Emergency Management Assistance Compact, the Interstate Compact on Industrialized/Modular Buildings, Interstate Insurance Receivership Compact, and several low-level radioactive waste compacts, which were mandated by Congress.

Other examples of compact activity include the revision of existing interstate agreements; updating agreements that maintain relevance, but which require a modernization of their structures. Recent examples include the Interstate Compact for Adult Offender Supervision, the Interstate Compact for Juveniles, and the Interstate Compact for the Placement of Children.

Creating Interstate Compacts

Compacts are essentially contracts between states. To be enforceable, they must satisfy the customary requirements for valid contracts, including the notions of offer and acceptance.

An offer is made when one state, usually by statute, adopts the terms of a compact requiring approval by one or more other states to become effective. Other states accept the offer by adopting identical compact language. Once the required number of states has adopted the pact, the “contract” among them is valid and becomes effective as provided. The only other potential requirement is congressional consent.

Congressional Consent

Article I, Section 10 of the U.S. Constitution provides in part that “no state shall, without the consent of Congress, enter into any agreement or compact with another state.” Historically, this clause generally meant all compacts must receive congressional consent.

However, the purpose of this provision was not to inhibit the states’ ability to act in concert with each other. In fact, by the time the Constitution was drafted, the states were already accustomed to resolving disputes and addressing problems through interstate compacts and agreements. The purpose of the compact clause was to protect the pre-eminence of the new national government by preventing the states from infringing upon federal authority or altering the federal balance of power by compact.

Accordingly, the Supreme Court in 1893 in *Virginia v. Tennessee*, indicated that not all compacts require Congressional approval. Today, it is well established that only those compacts that affect a power delegated to the federal government or alter the political balance within the federal system, require the consent of Congress.

For example, a river basin agreement between two or more states that might affect the water rights of non-party states would surely require congressional approval. Determining whether a compact affects federal powers is more difficult. Generally, any compact that touches on an area of mutual state-federal concern, or threatens to

interfere with the doctrine of federal preemption, may be said to require congressional consent, such as the Driver License Compact.

By example, it is almost easier to identify agreements that do not require congressional consent. Included among these are compacts concerning matters in which state authority is clearly pre-eminent. Education is one such area.

Compacts designed to facilitate interstate communication or promote cooperative studies do not usually require congressional consent, but those that impose more substantive obligations often do.

Fortunately, the consent requirement is not particularly burdensome. Though usually satisfied by means of a congressional resolution granting the states the authority to create a compact, the Constitution specifies neither the means nor the timing of the required consent. Over the years, the Supreme Court has held that congressional consent may be expressed or implied and may be obtained either before or after a compact is enacted.

Congressional consent may also be conditional, limited, or temporary, and is always subject to modification or repeal, even if this right is not expressly reserved when the consent is initially given. Thus, whether a compact requires consent or not, and regardless of the form that consent may take, no compact is immune from future invalidation by an Act of Congress. Therefore, express congressional consent is sometimes considered desirable; even if it isn't strictly required at the time the compact is created.

Delegation of State Authority to a Joint Administrative Agency

One of the axioms of modern government is the ability of a state legislature to delegate to an administrative body the power to make rules and decide particular cases. Upheld in 1951 by the U.S. Supreme Court in *West Virginia vs. Dyer*, this delegation of authority extends to the creation of interstate commissions through the vehicle of an interstate compact.

Examples include the Interstate Compact for Adult Offender Supervision, the New York-New Jersey Port Authority and the Interstate Pest Control Compact—each creates and maintains an interstate commission capable of providing administrative oversight to its member states on compact related issues.

Modern compacts are a reinvigoration of our federalist system in which states may only be able to preserve their sovereign authority over interstate problems to the extent that they share their sovereignty and work together cooperatively through interstate compacts.

Amending and Enforcing Compacts

Once established, compacts can only be amended or terminated in accordance with the instruments themselves or by mutual consent of the members by adopting identical substantive language. In other words, amending compacts requires the same process that is used to create them unless the compacts themselves specify other mechanisms.

A violation of compact terms, like a breach of contract, is subject to judicial remedy. Since compacts are agreements between states, the U.S. Supreme Court is the usual forum for the resolution of disputes between member states. However, compacts can, and frequently do, include provisions to resolve disputes through arbitration or other means.

Other Compact Components

Typical compact language might include any or all of the following: a statement of purpose; a list of goals and objectives; a description of functions, powers and duties; substantive regulations; provisions for an administrative structure or an independent agency; financial participation requirements, such as dues; enforcement and construction guidelines; and other provisions governing entry into force, amendments, severability, withdrawal and termination.

Timeframe Enacting Compacts

Compacts are not always complicated, but they may take time, especially if their subject matter is controversial. A study of 65 interstate compacts, conducted in the early 1960s, indicated that the average amount of time required to launch a new compact was almost 5 years. But that study was admittedly skewed by the unusually long time required for the approval of several compacts that dealt with controversial natural resource issues. In fact, the average time required to enact 19 compacts covering river management and water rights was almost 9 years.

More recently, however, interstate compacts have enjoyed great rapidity in their adoption. The Interstate Compact for Adult Offender Supervision was adopted by 35 states in just 30 months. Other recent compacts, including the new Interstate Insurance Product Regulation Compact are enjoying fast success, gaining quick adoptions over a period of 2–3 years.

In recent years, there have been some remarkable success stories. For example, in December 1989, a committee of the Midwestern Legislative Conference approved draft language for the Midwestern Higher Education Compact and began circulating it to lawmakers in the 12 Midwestern states that were eligible to participate. Just 13 months later, the compact became effective.

Avoiding Federal Interface

Finally, interstate compacts provide states the opportunity to cooperatively address policy issues in the face of an increasingly active federal government. With the federal dynamic constantly shifting between all levels of government, interstate compacts are an attractive alternative to ensure state agreement on complex policy issues, establish state authority over areas reserved for states and allow states to speak strongly with one unified voice. Without the compact, federal activism in traditional state policy areas is an increasing possibility.

