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Subject: Compact Questions (Activation and Appropriate Authority)
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Attachments: REPLICA Questions.pdf

Gentlemen,
Hopefully this adds something (other than murkiness and confusion) to the discussions happening about these two topics.

Appropriate Authority - Attached is a document I created years ago when the Rules Committee was chewing on the "Appropriate Authority" question. As a bonus, it also includes a discussion about "Home State."

Required Date for FBI Background Check - I am doing some code development work which took me back into the REPLICA section of our state EMS code. In reading through it, I recall having conversations about "activation of the compact" early in the rule-making process with Andy, Jeanne-Marie and Guy. My thoughts based on memory: The five year clock starts when a state enacts (activates) the compact. Most of our laws go into effect either sine die of the session or on July 1st (beginning of the State Fiscal Year). Some additional thoughts: All of the requirements stated in C1 through C5 are specific to the member state. It makes sense that the date stated in C4 apply to the member state. Tying the activation date to the implementation date stated in Section 14 of the compact seems flawed as the language in Section 14 speaks to the broader compact, not an individual state. I would argue that language in Section 14 actually strengthens the argument that the "activation of the compact" date is the date when the compact becomes law in the member state. From the compact: *"Section 14.A. The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state."* The final argument is that starting the five-year clock for each member state when that state becomes a compact state simply makes sense. If a state doesn't currently use the FBI background check, it will take a few years to get it in place. This allows them to join and have a block of time in which to get the background check up and running.

The next question is: Do the licensed personnel in a new member state (that doesn't currently use the FBI background check) enjoy a privilege to practice (PTP) during the time that it takes the state to enact the background check? I think they do. Section 4A indicates that the provider enjoys the PTP as long as the member state complies with Section 3. As long as the licensed provider's home state is within the five-year window, the PTP is good to go. If the home state doesn't have the FBI background check in place at "five years plus one day", the licensed provider would lose the PTP.

SECTION 3. HOME STATE LICENSURE.
A. Any member state in which an individual holds a current license shall be deemed a home state for purposes of this compact.
B. Any member state may require an individual to obtain and retain a license to be authorized to practice in the member state under circumstances not authorized by the privilege to practice under the terms of this compact.
C. A home state's license authorizes an individual to practice in a remote state under the privilege to

practice only if the home state:

1. Currently requires the use of the national registry of emergency medical technicians (NREMT) examination as a condition of issuing initial licenses at the EMT and paramedic levels;

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

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

4. No later than five (5) years after activation of the compact, requires a criminal background check of all applicants for initial licensure, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the federal bureau of investigation with the exception of federal employees who have suitability determination in accordance with 5 CFR 731.202 and submit documentation of such as promulgated in the rules of the commission; and

5. Complies with the rules of the commission.

SECTION 4. COMPACT PRIVILEGE TO PRACTICE

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

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

1. Be at least eighteen (18) years of age;

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

3. Practice under the supervision of a medical director.

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

D. Except as provided in this section, an individual practicing in a remote state will be subject to the remote state's authority and laws. A remote state may, in accordance with due process and that state's laws, restrict, suspend or revoke an individual's privilege to practice in the remote state and may take any other necessary actions to protect the health and safety of its citizens. If a remote state takes action it shall promptly notify the home state and the commission.

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

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

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