WEST VIRGINIA CODE: §16-60-10

§16-60-10. Establishment of the Interstate Commission for EMS Personnel Practice.

(a) *General.* — The Compact states hereby create and establish a joint public agency known as the Interstate Commission for EMS Personnel Practice.

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

(2) Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located: *Provided*, That pursuant to article VI, section 35 of the Constitution of West Virginia, neither the State of West Virginia nor any officer or agency thereof may be named as a defendant in an any court of law or equity except in the State of West Virginia. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(3) Nothing in this Compact may be construed to be a waiver of sovereign immunity.

(b) *Membership, voting, and meetings.* —

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

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

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

(4) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in §16-60-12 of this code.

(5) The Commission may convene in a closed, nonpublic meeting if the Commission must discuss:

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(A) Noncompliance of a member state with its obligations under the Compact;

(B) The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

(C) Current, threatened, or reasonably anticipated litigation;

(D) Negotiation of contracts for the purchase or sale of goods, services, or real estate;

(E) Accusing any person of a crime or formally censuring any person;

(F) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(G) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(H) Disclosure of investigatory records compiled for law-enforcement purposes;

(I) Disclosure of information related to any investigatory reports prepared by, on behalf of, or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or

(J) Matters specifically exempted from disclosure by federal or member state statute.

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

(c) *Conduct of Commission proceedings*. — The Commission shall, by a majority vote of the delegates, prescribe bylaws and/or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the Compact, including, but not limited to:

(1) Establishing the fiscal year of the Commission;

(2) Providing reasonable standards and procedures:

(A) For the establishment and meetings of other committees; and

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(B) Governing any general or specific delegation of any authority or function of the Commission;

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

(4) Establishing the titles, duties, and authority, and reasonable procedures for the election of the officers of the Commission;

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

(6) Promulgating a code of ethics to address permissible and prohibited activities of Commission members and employees;

(7) Providing a mechanism for concluding the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact after the payment and/or reserving of all of its debts and obligations;

(8) Publishing its bylaws and filing a copy thereof, and a copy of any amendment thereto, with the appropriate agency or officer in each of the member states, if any;

(9) Maintaining its financial records in accordance with the bylaws; and

(10) Meeting and taking such actions as are consistent with the provisions of this Compact and the bylaws.

(d) *Powers of the Commission.* — The Commission may:

(1) Promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states once authorized by the Legislature pursuant to the provisions of §29A-3-1 *et seq.* of this code;

(2) Bring and prosecute legal proceedings or actions in the name of the Commission: *Provided,* That the standing of any state EMS authority or other regulatory body responsible for EMS personnel licensure to sue or be sued under applicable law shall not be affected;

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(3) Purchase and maintain insurance and bonds;

(4) Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;

(5) Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(6) Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services and to receive, utilize, and dispose of the same, provided that at all times the Commission shall strive to avoid any appearance of impropriety and/or conflict of interest;

(7) Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use any property, real, personal, or mixed: *Provided,* That all times the Commission shall strive to avoid any appearance of impropriety;

(8) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

(9) Establish a budget and make expenditures;

(10) Borrow money;

(11) Appoint committees, including advisory committees composed of members, state regulators, state legislators or their representatives, consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

(12) Provide and receive information from, and cooperate with, law-enforcement agencies;

(13) Adopt and use an official seal; and

(14) Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of EMS personnel licensure and practice.

(e) *Financing of the Commission*. —

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

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

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(3) The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states: *Provided*, That no assessment may be binding upon the State of West Virginia unless the rule setting forth the formula for determining the aggregate annual assessment has been authorized by the Legislature pursuant to the legislative rule-making procedures in §29A-3-1 *et seq.* of this code: *Provided, however*, That the validity of any annual assessment levied on the State of West Virginia shall be contingent upon funds being appropriated by the Legislature or otherwise being made available.

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

(5) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws; however, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

(f) *Qualified immunity, defense, and indemnification*. —

(1) The members, officers, executive director, employees, and representatives 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, willful, or wanton misconduct of that person.

(2) The Commission shall defend any member, officer, executive director, employee, or representative 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 it occurred within the scope of Commission employment, duties, or responsibilities: *Provided*, That nothing herein may be construed to prohibit that person from retaining his or her own counsel, and that the actual or alleged act, error, or omission did not result from that person’s intentional or willful or wanton misconduct.

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(3) The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative 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.

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