WEST VIRGINIA CODE CHAPTER 18 ARTICLE 10R

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§18-10R-1. Interstate Compact for School psychologists; purpose.

(a) The purpose of this compact is to facilitate the interstate practice of school psychology in educational or school settings, and in so doing to improve the availability of school psychological services to the public. This compact is intended to establish a pathway to allow school psychologists to obtain equivalent licenses to provide school psychological services in any member state. In this way, this compact shall enable the member states to ensure that safe and effective school psychological services are available and delivered by appropriately qualified professionals in their educational settings.

(b) To facilitate the objectives described in subsection (a) of this section, this compact:

(1) Enables school psychologists who qualify for receipt of an equivalent license to practice in other member states without first satisfying burdensome and duplicative requirements;

(2) Promotes the mobility of school psychologists between and among the member states in order to address workforce shortages and to ensure that safe and reliable school psychological services are available in each member state;

(3) Enhances the public accessibility of school psychological services by increasing the availability of qualified, licensed school psychologists through the establishment of an efficient and streamlined pathway for licensees to practice in other member states;

(4) Preserves and respects the authority of each member state to protect the health and safety of its residents by ensuring that only qualified, licensed professionals are authorized to provide school psychological services within that state;

(5) Requires school psychologists practicing within a member state to comply with the scope of practice laws present in the state where the school psychological services are being provided;

(6) Promotes cooperation between the member states in regulating the practice of school psychology within those states; and

(7) Facilitates the relocation of military members and their spouses who are licensed to provide school psychological services.

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§18-10R-2. Definitions.

"Active Military Member" means any person with full-time duty status in the armed forces of the United States, including members of the National Guard and Reserve.

"Adverse Action" means disciplinary action or encumbrance imposed on a license by a state licensing authority.

"Alternative Program" means a non-disciplinary, prosecutorial diversion, monitoring, or practice remediation process entered into in lieu of an adverse action which is applicable to a school psychologist and approved by the state licensing authority of a member state in which the participating school psychologist is licensed. This includes, but is not limited to, programs to which licensees with substance abuse or addiction issues may be referred in lieu of an adverse action.

"Commissioner" means the individual appointed by a member state to serve as the representative to the commission for that member state.

"Compact" means this School Psychologist Interstate Licensure Compact.

"Continuing Professional Education" means a requirement, imposed by a member state as a condition of license renewal to provide evidence of successful participation in professional educational activities relevant to the provision of school psychological services.

"Criminal Background Check" means the submission of fingerprints or other biometric-information for a license applicant for the purpose of obtaining that applicant's criminal history record information, as defined in 28 C.F.R. § 20.3(d), and the state's criminal history record repository as 81 defined in 28 C.F.R. § 20.3(f).

"Doctoral Level Degree" means a graduate degree program that consists of at least 90 graduate semester hours in the field of school psychology including a supervised internship.

"Encumbered License" means a license that a state licensing authority has limited in any way other than through an alternative program, including temporary or provisional licenses.

"Executive committee" means the commission's chair, vice chair, secretary and treasurer and any other commissioners as may be determined by commission rule or bylaw.

"Equivalent License" means a license to practice school psychology which a member state has identified as a license which may be provided to school psychologists from other member states pursuant to this compact.

"Home state" means the member state that issued the home state license to the licensee and is the licensee's primary state of practice.

"Home state License" means the license that is not an encumbered license issued by the

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home state to provide school psychological services.

“School Psychological Services” means academic, mental and behavioral health services including assessment, prevention, consultation and collaboration, intervention, and evaluation provided by a school psychologist in a school, as outlined in applicable professional standards as determined by commission rule.

“License” means a current license, certification, or other authorization granted by a member state’s licensing authority that permits an individual to provide school psychological services.

“Licensee” means an individual who holds a license from a member state to provide school psychological services.

“Licensing Authority” means a member state’s regulatory body responsible for issuing licenses or otherwise overseeing the practice of school psychology.

“Member State” means a state that has enacted the compact and been admitted to the commission in accordance with the provisions of this article and commission rules.

“Model Compact” means the model language for the School Psychologist Interstate Licensure Compact on file with the Council of State Governments or other entity as designated by the commission.

“Practice of School Psychology” means the delivery school psychological services.

“School Psychologist Interstate Licensure Compact Commission” or “Commission” means the joint government agency established by this compact whose membership consists of representatives from each member state that has enacted the compact, and as further described in section seven of this article.

“Specialist-Level Degree” means a degree program that requires at least 60 graduate semester hours or their equivalent in the field of school psychology including a supervised internship.

“Qualifying National Exam” means a national licensing examination endorsed by the National Association of School Psychologists and any other exam as approved by the rules of the commission.

“Qualifying School Psychologist Education Program” means an education program which awards a Specialist-Level or Doctoral-Level degree or equivalent upon completion and is approved by the rules of the commission as meeting the necessary minimum educational standards to ensure that its graduates are ready, qualified, and able to engage in the practice of school psychology.

“Remote State” means a member state other than the home state where a licensee holds a

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license through the compact.

“Rule” means a regulation promulgated by an entity, including but not limited to the commission and the state licensing authority of each member state, that has the force of law.

“School Psychologist” means an individual who has met the requirements to obtain a home state license that legally conveys the professional title of school psychologist, or its equivalent as determined by the rules of the commission.

“Scope of Practice” means the procedures, actions, and processes a school psychologist licensed in a state is permitted to undertake in that state and the circumstances under which that licensee is permitted to undertake those procedures, actions, and processes. The procedures, actions, and processes, and the circumstances under which they may be undertaken, may be established through means including, but not limited to, statute, rules, case law, and other processes available to the state licensing authority or other government agency.

“State” means any state, commonwealth, district, or territory of the United States of America.

“State Licensing Authority” means an agency, whether the Department of Education or otherwise, or other entity operating as an arm of a state that is responsible for the licensing and regulation of school psychologists.

“State Specific Requirement” means a requirement for licensure covered in coursework or examination that includes content of unique interest to the state.

“Unencumbered License” means a license that authorizes a licensee to engage in the full and unrestricted practice of school psychology.

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§18-10R-3. State participation in the compact.

(a) To be eligible to join this compact, and to maintain eligibility as a member state, a state shall:

(1) Enact a compact statute that is not materially different from the model compact as defined in the commission's rules;

(2) Participate in the sharing of information with other member states as reasonably necessary to accomplish the objectives of this compact, and as further defined in section eight of this article;

(3) Identify and maintain with the commission a list of equivalent licenses available to licensees who hold a home state license under this compact;

(4) Have a mechanism in place for receiving and investigating complaints about licensees;

(5) Notify the commission, in compliance with the terms of the compact and the commission's rules, of any adverse action taken against a licensee, or of the availability of investigative information which relates to a licensee or applicant for licensure;

(6) Require that applicants for a home state license have:

(A) Taken and passed a qualifying national exam as defined by the rules of the commission;

(B) Completed a minimum of 1200 hours of supervised internship, of which at least 600 have been completed in a school, prior to being approved for licensure;

(C) Graduated from a qualifying school psychologist education program; and

(7) Comply with the terms of this compact and the rules of the commission.

(b) Each member state shall grant an equivalent license to practice school psychology in that state upon application by a licensee who satisfies the criteria of §18-10R-4(a) of this code. Each member state shall grant renewal of the equivalent license to a licensee who satisfies the criteria of §18-10R-4(b) of this code.

(c) Member states may set and collect a fee for granting an equivalent license.

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§18-10R-4. School psychologist participant in the compact .

(a) To obtain and maintain an equivalent license from a receiving state under this compact, a licensee must:

(1) Hold and maintain an active home state license;

(2) Satisfy any applicable state specific requirements established by the member state after an equivalent license is granted;

(3) Complete any administrative or application requirements which the commission may establish by rule, and pay any associated fees;

(4) Complete any requirements for renewal in the home state, including applicable continuing professional education requirements; and

(5) Upon their application to receive a license under this compact, undergo a criminal background check in the member state in which the equivalent license is sought in accordance with the laws and regulations of such member state.

(b) To renew an equivalent license in a member state other than the home state, a licensee must only apply for renewal, complete a background check, and pay renewal fees as determined by the licensing authority.

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§18-10R-5. Active military members or their spouses.

A licensee who is an active military member or is the spouse of an active military member shall be considered to hold a home state license in any of the following locations:

(a) The licensee's permanent residence;

(b) A member state that is the licensee's primary state of practice; or

(c) A member state where the licensee has relocated pursuant to a permanent change of station (PCS).

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§18-10R-6. Discipline; adverse actions.

(a) Nothing in this compact shall be considered or construed to limit the authority of a member state to investigate or impose disciplinary measures on licensees according to the state's practice laws.

(b) Member states may receive, and shall provide, files and information regarding the investigation and discipline, if any, of licensees in other member states upon request. Any member state receiving such information or files shall protect and maintain the security and confidentiality thereof, in at least the same manner that it maintains its own investigatory or disciplinary files and information. Prior to disclosing any disciplinary or investigatory information received from another member state, the disclosing state shall communicate its intention and purpose for such disclosure to the member state which originally provided that information.

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§18-10R-7. Establishment of the School Psychologist Interstate Licensure Compact Commission.

(a) The member states hereby create and establish a joint government agency whose membership consists of all member states that have enacted the compact, and this agency shall be known as the School Psychologist Interstate Licensure Compact Commission. The commission is an instrumentality of the member states acting jointly and not an instrumentality of any one state. The commission shall come into existence on or after the effective date of the compact as set forth in §18-10R-11 of this code.

(b) Membership, Voting, and Meetings.

(1) Each member state shall have and be limited to one delegate selected by that member state's licensing authority.

(2) The delegate shall be the primary administrative officer of the member state licensing authority or his or her designee who is an employee of the member state licensing authority.

(3) The commission shall by rule or bylaw establish a term of office for delegates and may by rule or bylaw establish term limits.

(4) The commission may recommend removal or suspension of any delegate from office.

(5) A member state's licensing authority shall fill any vacancy of its delegate occurring on the commission within 60 days of the vacancy.

(6) Each delegate has one vote on all matters before the commission requiring a vote by commission delegates.

(7) A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates to meet by telecommunication, videoconference, or other means of communication.

(8) The commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The commission may meet by telecommunication, video conference or other similar electronic means.

(c) The powers, duties, and responsibilities of the commission include:

(1) Establishing the fiscal year of the commission;

(2) Establishing code of conduct and conflict of interest policies;

(3) Establishing and amending rules and bylaws;

(4) Establishing the procedure through which a licensee may change his or her home state;

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

(6) Meeting and taking such actions as are consistent with the provisions of this compact, the commission’s rules, and the bylaws;

(7) Initiating and concluding legal proceedings or actions in the name of the commission, provided that the standing of any member state licensing authority to sue or be sued under applicable law shall not be affected;

(8) Maintaining and certifying records and information provided to a member state as the authenticated business records of the commission, and designating an agent to do so on the commission's behalf;

(9) Purchasing and maintaining insurance and bonds;

(10) Borrowing, accepting, or contracting for services of personnel, including, but not limited to, employees of a member state;

(11) Conducting an annual financial review;

(12) Hiring employees, electing or appointing officers, fixing compensation, defining duties, granting such individuals appropriate authority to carry out the purposes of the compact, and establishing the commission’s personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(13) Assessing and collecting fees;

(14) Accepting any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services, and receiving, using, and disposing of the same; provided that at all times the commission shall avoid any appearance of impropriety and/or conflict of interest;

(15) Leasing, purchasing, retaining, owning, holding, improving, or using any property, real, personal, or mixed, or any undivided interest therein;

(16) Selling, conveying, mortgaging, pledging, leasing, exchanging, abandoning, or otherwise disposing of any property real, personal, or mixed;

(17) Establishing a budget and making expenditures;

(18) Borrowing money;

(19) Appointing committees, including standing committees, composed of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

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(20) Providing and receiving information from, and cooperating with, law enforcement agencies;

(21) Establishing and electing an executive committee, including a chair and a vice chair;

(22) Determining whether a state's adopted language is materially different from the model compact language such that the state would not qualify for participation in the compact; and

(23) Performing any other functions necessary or appropriate to achieve the purposes of this compact.

(d) The Executive committee may act on behalf of the commission according to the terms of this compact. The powers, duties, and responsibilities of the executive committee include:

(1) Overseeing of the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its rules and bylaws, and other such duties as considered necessary;

(2) Recommending to the commission changes to the rules or bylaws, changes to this compact legislation, fees charged to member states, fees charged to licensees, and other fees;

(3) Ensuring compact administration services are appropriately provided, including by contract;

(4) Preparing and recommending the budget;

(5) Maintaining financial records on behalf of the commission;

(6) Monitoring compact compliance of member states and provide compliance reports to the commission;

(7) Establishing additional committees as necessary;

(8) Exercising the powers and duties of the commission during the interim between commission meetings, except for adopting or amending Rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the commission by rule or bylaw; and

(9) Performing other duties as provided in the rules or bylaws of the commission.

(e) The executive committee shall be composed of up to seven members:

(1) The chair and vice chair of the commission shall be voting members of the executive committee; and

(2) The commission shall elect five voting members from the current membership of the

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commission.

(f) The commission may remove any member of the executive committee as provided in the commission's bylaws.

(g) The executive committee shall meet at least annually.

(1) Executive committee meetings shall be open to the public, except that the executive committee may meet in a closed, non-public meeting as provided in subdivision four, subsection (h) of this section.

(2) The executive committee shall give 30 days' notice of its meetings, posted on its website and as determined to provide notice to persons with an interest in the business of the commission.

(3) The executive committee may hold a special meeting in accordance with subsection subdivision three, subsection (h) of this section.

(4) The commission shall adopt and provide to the member states an annual report.

(h) Meetings of the commission.

(1) All meetings shall be open to the public, except that the commission may meet in a closed, non-public meeting as provided subdivision four, subsection (h) of this section.

(2) Public notice for all meetings of the full commission of meetings shall be given in the same manner as required under the rulemaking provisions in §18-10R-9 of this code, except that the commission may hold a special meeting as provided subsection subdivision three, subsection (h) of this section.

(3) The commission may hold a special meeting when it must meet to conduct emergency business by giving 48 hours' notice to all commissioners, on the commission's website, and other means as provided in the commission's rules. The commission's legal counsel shall certify that the commission's need to meet qualifies as an emergency.

(4) The commission or the executive committee or other committees of the commission may convene in a closed, non-public meeting for the commission or executive committee or other committees of the commission to receive legal advice or to discuss:

(i) Non-compliance of a member state with its obligations under the compact;

(1) The employment, compensation, discipline or other matters, practices or procedures related to specific employees;

(2) Current or threatened discipline of a Licensee by the commission or by a member state's licensing authority;

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

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

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

(6) Trade secrets or commercial or financial information that is privileged or confidential;

(7) Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(8) Investigative records compiled for law enforcement purposes;

(9) Information related to any investigative reports prepared by or 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;

(10) Matters specifically exempted from disclosure by federal or Member state law; or

(11) Other matters as promulgated by the commission by rule.

(j) If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.

(k) 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 therefore, 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 only by a majority vote of the commission or order of a court of competent jurisdiction.

(l) 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 as provided in subsection subdivision 14, subsection (c) of this section.

(3) The commission may levy on and collect an annual assessment from each member state and impose fees on licensees practicing in the member states under an equivalent license 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 for member states shall be allocated based upon a formula that the commission shall

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promulgate by rule.

(4) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall 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 financial review and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the commission.

(j) Qualified Immunity, Defense, and Indemnification.

(1) The members, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, both personally and 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 subdivision shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the commission shall not in any way compromise or limit the immunity granted hereunder.

(2) The Commission shall defend any member, officer, executive director, employee, and 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 as determined by the commission 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 subdivision shall be construed to prohibit that person from retaining their own counsel at their own expense: *Provided, however,* that the actual or alleged act, error, or omission did not result from that person’s intentional or willful or wanton misconduct.

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee, and 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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(4) Nothing in this section shall be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable state laws.

(5) Nothing in this compact shall be interpreted to waive or otherwise abrogate a member state's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other state or federal antitrust or anticompetitive law or regulation.

(6) Nothing in this compact shall be construed to be a waiver of sovereign immunity by the Member states or by the commission.

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§18-10R-8. Facilitating information exchange.

(a) The commission shall provide for facilitating the exchange of information to administer and implement the provisions of this compact in accordance with the rules of the commission, consistent with generally accepted data protection principles.

(b) Notwithstanding any other provision of state law to the contrary, a member state shall agree to provide for the facilitation of the following Licensee information as required by the Rules of the commission, including:

(1) Identifying information;

(2) Licensure data;

(3) Adverse actions against a license and information related thereto;

(c) Non-confidential information related to alternative program participation, the beginning and ending dates of such participation, and other information related to such participation not made confidential under member state law;

(1) Any denial of application for licensure, and the reasons for such denial;

(2) The presence of investigative information; and

(3) Other information that may facilitate the administration of this compact or the protection of the public, as determined by the rules of the commission.

(d) Nothing in this compact shall be considered or construed to alter, limit, or inhibit the power of a member state to control and maintain ownership of its licensee information or alter, limit, or inhibit the laws or regulations governing Licensee information in the member state.

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§18-10R-9. Rulemaking.

(a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this interstate compact and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(b) The commission shall promulgate reasonable rules to achieve the intent and purpose of this interstate compact. In the event the commission exercises its rulemaking authority in a manner that is beyond purpose and intent of this interstate compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force and effect of law in the member states.

(c) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four (4) years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

(d) Rules or amendments to the Rules shall be adopted or ratified at a regular or special meeting of the commission in accordance with commission rules and Bylaws.

(e) Prior to promulgation and adoption of a final rule or rules by the commission, and at least thirty (30) days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(1) On the website of the commission or other publicly accessible platform; and

(2) On the website of each member state licensing authority or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

(f) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with 48 hours' notice, with opportunity to comment, provided that the usual rulemaking procedures 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. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(1) Meet an imminent threat to public health, safety, or welfare.

(2) Prevent a loss of commission or member state funds.

(3) Meet a deadline for the promulgation of an administrative Rule that is established by federal law or rule; or

(4) Protect public health and safety.

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§18-10R-10. Oversight, dispute resolution, and enforcement.

(a) Oversight;

(1) The executive and judicial branches of the State government in each member state shall enforce this compact and take all actions necessary and appropriate to implement the compact.

(2) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing in this subdivision shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct or any such similar matter.

(3) The commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the commission service of process shall render a judgment or order void as to the commission, this compact, or promulgated rules.

(b) Default, Technical Assistance, and Termination;

(1) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall provide written notice to the defaulting state. The notice of default shall describe the default, the proposed means of curing the default, and any other action that the commission may take, and shall offer training and specific technical assistance regarding the default.

(2) The commission shall provide a copy of the notice of default to the other member states.

(c) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a supermajority of the delegates of the member states, and all rights, privileges and benefits conferred on that state by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(d) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting State’s legislature, the defaulting state’s licensing authority and each of the member states’ licensing authorities.

(e) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that

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extend beyond the effective date of termination.

(f) Upon the termination of a state's membership from this compact, that state shall immediately provide notice to all Licensees within that state of such termination. The terminated state shall continue to recognize all licenses granted pursuant to this compact for a minimum of six (6) months after the date of said notice of termination.

(g) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(h) The defaulting state may appeal the action of the commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

(i) Dispute Resolution;

(1) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and non-member states.

(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(j) Enforcement;

(1) By majority vote as provided by rule, the commission may initiate legal action against a member state in default in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees. The remedies in this subdivision shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or the defaulting member state's law.

(2) A member state may initiate legal action against the commission in the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

(3) No person other than a member state shall enforce this compact against the Commission.

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§18-10R-11. Effective date, withdrawal, and amendment.

(a) The compact shall come into effect on the date on which the compact statute is enacted into law in the seventh member state.

(1) On or after the effective date of the compact specified in subsection (a) of this section, the commission shall convene and review the enactment of each of the charter member states to determine if the statute enacted by each such charter member state is materially different than the model compact statute.

(A) A charter member state whose enactment is found to be materially different from the model compact statute shall be entitled to the default process set forth in §18-10R-10 of this code.

(B) If any member state is later found to be in default, or is terminated or withdraws from the compact, the commission shall remain in existence and the compact shall remain in effect even if the number of member states should be less than seven.

(2) Member states enacting the compact subsequent to the charter member states shall be subject to the process set forth in §18-10R-7(C)(21) to determine if their enactments are materially different from the model compact statute and whether they qualify for participation in the compact.

(3) All actions taken for the benefit of the commission or in furtherance of the purposes of the administration of the compact prior to the effective date of the compact or the commission coming into existence shall be considered to be actions of the commission unless specifically repudiated by the commission.

(A) Any state that joins the compact subsequent to the commission's initial adoption of the Rules and bylaws shall be subject to the rules and bylaws 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.

(B) Any member state may withdraw from this compact by enacting a statute repealing the same.

(C) A member state's withdrawal shall not take effect until 180 days after enactment of the repealing statute.

(D) Withdrawal shall not affect the continuing requirement of the withdrawing state's licensing authority to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

(E) Upon the enactment of a statute withdrawing from this compact, a state shall immediately provide notice of such withdrawal to all licensees within that state.

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Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing state shall continue to recognize all licenses granted pursuant to this compact for a minimum of six (6) months after the date of such notice of withdrawal.

(i) Nothing contained in this compact shall be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this compact.

(ii) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

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§18-10R-12. Construction and severability.

(a) This compact and the commission's rulemaking authority shall be liberally construed so as to effectuate the purposes, and the implementation and administration of the compact. Provisions of the compact expressly authorizing or requiring the promulgation of rules shall not be construed to limit the commission's rulemaking authority solely for those purposes.

(b) The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is held by a court of competent jurisdiction to be contrary to the constitution of any Member state, a State seeking participation in the compact, or of the United States, or the applicability thereof to any government, agency, person or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected thereby.

(c) Notwithstanding subsection B of this section, the commission may deny a state's participation in the compact or, in accordance with the requirements of §18-10R-10.B of this code, terminate a member state's participation in the compact, if it determines that a constitutional requirement of a Member state is a material departure from the compact. Otherwise, if this compact shall be held to be contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the Member state affected as to all severable matters.

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§18-10R-13. Consistent effect and conflict with other state laws.

(a) Nothing in this article shall prevent or inhibit the enforcement of any other law of a member state that is not inconsistent with the compact.

(b) Any laws, statutes, regulations, or other legal requirements in a member state in conflict with the compact are superseded to the extent of the conflict.

(c) All permissible agreements between the commission and the member states are binding in accordance with their terms.

WV Legislature