WEST VIRGINIA CODE: §30-21A-9

§30-21A-9. Establishment of the psychology interjurisdictional compact.

(a) The Compact States hereby create and establish a joint public agency known as the Psychology Interjurisdictional Compact Commission.

(1) The commission is a body politic and an instrumentality of the Compact States.

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

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

(b) Membership, voting, and meetings:

(1) The commission shall consist of one voting representative appointed by each Compact State who shall serve as that state's commissioner. The State Psychology Regulatory Authority shall appoint its delegate. This delegate may act on behalf of the Compact State. This delegate shall be limited to:

(A) Executive Director, Executive Secretary, or similar executive;

(B) Current member of the State Psychology Regulatory Authority of a Compact State; or

(C) Designee empowered with the appropriate delegate authority to act on behalf of the Compact State.

(2) Any commissioner may be removed or suspended from office as provided by the law of the state from which the commissioner is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the Compact State in which the vacancy exists.

(3) Each commissioner shall be 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 commissioner shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for commissioners' participation in meetings by telephone or other means of communication.

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

(5) All meetings shall be open to the public, and public notice of meetings shall be given in

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the same manner as required under the rulemaking provisions in §30-21A-10 of this code.

(6) The commission may convene in a closed, nonpublic meeting if the commission shall discuss:

(A) Noncompliance of a Compact 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 against the commission;

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

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

(F) Disclosure of trade secrets or commercial or financial information which 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 or on behalf of or for use of the commission or other committee charged with responsibility for investigation or determination of compliance issues pursuant to the Compact; or

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

(7) 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 which fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, of any person participating in the meeting, 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.

(c) The commission shall, by a majority vote of the commissioners, prescribe bylaws and 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;

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(2) Providing reasonable standards and procedures:

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

(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 of such proceedings, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the commissioners vote to close a meeting to the public, in whole or in part. As soon as practicable, the commission shall make public a copy of the vote to close the meeting revealing the vote of each commissioner 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 law of any Compact 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 reserving of all of its debts and obligations;

(8) The commission shall publish its bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the Compact States;

(9) The commission shall maintain its financial records in accordance with the bylaws; and

(10) The commission shall meet and take such actions as are consistent with the provisions of this Compact and the bylaws.

(d) The commission may:

(1) Promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rule shall have the force and effect of law and shall be binding in all Compact States;

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(2) Bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any State Psychology Regulatory Authority or other regulatory body responsible for psychology licensure to sue or be sued under applicable law may not be affected;

(3) Purchase and maintain insurance and bonds;

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

(7) Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, real, personal or mixed: *Provided*, That at 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 comprised 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;

(12) Provide and receive information from, and to 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 psychology licensure, temporary in-person, face-to-face practice and telepsychology practice.

(e) The elected officers shall serve as the Executive Board, which may act on behalf of the commission according to the terms of this Compact.

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(1) The Executive Board shall be comprised of six members:

(A) Five voting members who are elected from the current membership of the commission by the commission;

(B) One ex-officio, nonvoting member from the recognized membership organization composed of State and Provincial Psychology Regulatory Authorities.

(2) The ex-officio member shall have served as staff or member on a State Psychology Regulatory Authority and will be selected by its respective organization.

(3) The commission may remove any member of the Executive Board as provided in bylaws.

(4) The Executive Board shall meet at least annually.

(5) The Executive Board shall have the following duties and responsibilities:

(A) Recommend to the entire commission changes to the rules or bylaws, changes to this Compact legislation, fees paid by Compact States such as annual dues, and any other applicable fees;

(B) Ensure Compact administration services are appropriately provided, contractual or otherwise;

(C) Prepare and recommend the budget;

(D) Maintain financial records on behalf of the commission;

(E) Monitor Compact compliance of member states and provide compliance reports to the commission;

(F) Establish additional committees as necessary; and

(G) Other duties as provided in rules or bylaws.

(f) Financing 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.

(3) The commission may levy on and collect an annual assessment from each Compact State or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff which shall 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

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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 Compact States.

(4) The commission may 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 Compact States, except by and with the authority of the Compact 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.

(g) 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 may 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.

(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 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: *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, 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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