WEST VIRGINIA CODE: §30-34A-6

§30-34A-6. Adverse actions.

(a) A member state in which a licensee is licensed shall have authority to impose adverse action against the license issued by that member state.

(b) A member state may take adverse action based on significant investigative information of a remote state or the home state, so long as the member state follows its own procedures for imposing adverse action.

(c) Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the member state's laws.

(d) A remote state shall have the authority to:

(1) Take adverse actions as set forth herein against a licensee's compact privilege in that state;

(2) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, and the production of evidence.

(e)(1) Subpoenas may be issued by a respiratory therapy licensing authority in a member state for the attendance and testimony of witnesses and the production of evidence.

(2) Subpoenas issued by a respiratory therapy licensing authority in a member state for the attendance and testimony of witnesses shall be enforced in the latter state by any court of competent jurisdiction in the latter state, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it.

(3) Subpoenas issued by a respiratory therapy licensing authority in a member state for production of evidence from another member state shall be enforced in the latter state, according to the practice and procedure of that court applicable to subpoenas issued in the proceedings pending before it.

(4) The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or evidence are located;

(f) Unless otherwise prohibited by state law, recover from the licensee the costs of investigations and disposition of cases resulting from any adverse action taken against that licensee;

(g) Notwithstanding subsection (d)(2), a member state may not issue a subpoena to gather evidence of conduct in another member state that is lawful in such other member state for

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the purpose of taking adverse action against a licensee's compact privilege or application for a compact privilege in that member state; and

(h) Nothing in this compact authorizes a member state to impose discipline against a respiratory therapist's compact privilege in that member state for the individual's otherwise lawful practice in another state.

(i) Joint investigations:

(1) In addition to the authority granted to a member state by its respective respiratory therapy practice act or other applicable state law, a member state may participate with other member states in joint investigations of licensees: *Provided*, That a member state receiving such a request has no obligation to respond to any subpoena issued regarding an investigation of conduct or practice that was lawful in a member state at the time it was undertaken.

(2) Member states shall share any significant investigative information, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact, in sharing such information between member state respiratory therapy licensing authorities, all information obtained shall be kept confidential, except as otherwise mutually agreed upon by the sharing and receiving member state(s).

(j) Nothing in this compact may permit a member state to take any adverse action against a licensee or holder of a compact privilege for conduct or practice that was legal in the member state at the time it was undertaken.

(k) Nothing in this compact may permit a member state to take disciplinary action against a licensee or holder of a compact privilege for conduct or practice that was legal in the member state at the time it was undertaken.

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