WEST VIRGINIA CODE: §30-3G-7

§30-3G-7. Establishment of the Physician Assistant Licensure Compact Commission.

(a) The participating states hereby create and establish a joint government agency and national administrative body known as the Physician Assistant Licensure Compact Commission. The commission is an instrumentality of the compact 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 §30-3G-11(a) of this code.

(b) Membership, voting, and meetings.

(1) Each participating state shall have and be limited to one delegate selected by that participating state's licensing board or, if the state has more than one licensing board, selected collectively by the participating state's licensing boards.

(2) The delegate shall be either:

(A) A current physician assistant, physician or public member of a licensing board or physician assistant council/committee; or

(B) An administrator of a licensing board.

(3) Any delegate may be removed or suspended from office as provided by the laws of the state from which the delegate is appointed.

(4) The participating state licensing board shall fill any vacancy occurring in the commission within 60 days.

(5) Each delegate shall be entitled to one vote on all matters voted on by the commission 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 telecommunications, video conference, or other means of communication.

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

(7) The commission shall establish, by rule, a term of office for delegates.

(c) The commission shall have the following powers and duties:

(1) Establish a code of ethics for the commission;

(2) Establish the fiscal year of the commission;

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(3) Establish fees;

(4) Establish bylaws;

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

(6) Meet and take such actions as are consistent with the provisions of this compact and the bylaws;

(7) Promulgate 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 participating states;

(8) Bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state licensing board to sue or be sued under applicable law shall not be affected;

(9) Purchase and maintain insurance and bonds;

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

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

(12) Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same: *Provided*, That at all times the commission shall avoid any appearance of impropriety or conflict of interest;

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

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

(15) Establish a budget and make expenditures;

(16) Borrow money;

(17) Appoint 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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(18) Provide and receive information from, and cooperate with, law enforcement agencies;

(19) Elect a chair, vice chair, secretary and treasurer and such other officers of the commission as provided in the commission's bylaws;

(20) Reserve for itself, in addition to those reserved exclusively to the commission under the compact, powers that the executive committee may not exercise;

(21) Approve or disapprove a state's participation in the compact based upon its determination as to whether the state's compact legislation departs in a material manner from the model compact language;

(22) Prepare and provide to the participating states an annual report; and perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of physician assistant licensure and practice.

(d) Meetings of the commission.

(1) All meetings of the commission that are not closed pursuant to this subsection shall be open to the public. Notice of public meetings shall be posted on the commission's website at least 30 days prior to the public meeting.

(2) Notwithstanding subsection (d)(2) of this section, the commission may convene a public meeting by providing at least 24 hours prior notice on the commission's website, and any other means as provided in the commission's rules, for any of the reasons it may dispense with notice of proposed rulemaking under §30-3G-9(l) of this code.

(3) The commission may convene in a closed, non-public meeting or non-public part of a public meeting to receive legal advice or to discuss:

(A) Non-compliance of a participating state with its obligations under this compact;

(B) The employment, compensation, discipline, or other 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, lease, 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

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clearly unwarranted invasion of personal privacy;

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

(I) Disclosure of 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 this compact;

(J) Legal advice; or

(K) Matters specifically exempted from disclosure by federal or participating states' statutes.

(4) If a meeting, or portion of a meeting, is closed pursuant to this provision, the chair of the meeting or the chair's designee shall certify that the meeting or portion of the meeting may be closed and shall reference each relevant exempting provision.

(5) 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, 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.

(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.

(3) The commission may levy on and collect an annual assessment from each participating state and may impose compact privilege fees on licensees of participating states to whom a compact privilege is granted 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 by the commission each year for which revenue is not provided by other sources. The aggregate annual assessment amount levied on participating states shall be allocated based upon a formula to be determined by commission rule.

(A) A compact privilege expires when the licensee's qualifying license in the participating state from which the licensee applied for the compact privilege expires.

(B) If the licensee terminates the qualifying license through which the licensee applied for the compact privilege before its scheduled expiration, and the licensee has a qualifying license in another participating state, the licensee shall inform the commission that it is changing to the participating state through which it applies for a compact privilege and pay

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to the commission any compact privilege fee required by commission 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 participating states, except by and with the authority of the participating 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. 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.

(f) The executive committee.

(1) The executive committee shall have the power to act on behalf of the commission according to the terms of this compact and commission rules.

(2) The executive committee shall be composed of nine members:

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

(B) One ex officio, nonvoting member from a recognized national physician assistant professional association; and

(C) One ex officio, nonvoting member from a recognized national physician assistant certification organization.

(3) The ex officio members will be selected by their respective organizations.

(4) The commission may remove any member of the executive committee as provided in its bylaws.

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

(6) The executive committee shall have the following duties and responsibilities:

(A) Recommend to the commission changes to the commission’s rules or bylaws, changes to this compact legislation, fees to be paid by compact participating states such as annual dues, and any commission compact fee charged to licensees for the compact privilege;

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

(C) Prepare and recommend the budget;

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

(E) Monitor compact compliance of participating states and provide compliance reports to the commission;

(F) Establish additional committees as necessary;

(G) Exercise the powers and duties of the commission during the interim between commission meetings, except for issuing proposed rulemaking or adopting commission rules or bylaws, or exercising any other powers and duties exclusively reserved to the commission by the commission's rules; and

(H) Perform other duties as provided in the commission's rules or bylaws.

(7) All meeting of the executive committee at which it votes or plans to vote on matters in exercising the powers and duties of the commission shall be open to the public and public notice of such meetings shall be given as public meetings of the commission are given.

(8) The executive committee may convene in a closed, non-public meeting for the same reasons that the commission may convene in a non-public meeting as set forth in §30-3G-7(d)(3) of this code and shall announce the closed meeting as the commission is required to under §30-3G-7(d)(4) of this code and keep minutes of the closed meeting as the commission is required to under §30-3G-7(d) of this code.

(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, 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 paragraph 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 herein 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

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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.

(4) 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 in any proceedings as authorized by commission rules.

(5) Nothing herein 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.

(6) Nothing herein shall be construed to designate the venue or jurisdiction to bring actions for alleged acts of malpractice, professional misconduct, negligence, or other such civil action pertaining to the practice of a physician assistant. All such matters shall be determined exclusively by state law other than this compact.

(7) Nothing in this compact shall be interpreted to waive or otherwise abrogate a participating 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.

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

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