

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4951

BY DELEGATES W. CLARK, E. PRITT, KUMP, FERRELL,

FOGGIN, AND WILLIS

[Passed March 9, 2024; in effect ninety days from

passage.]

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article
2 designated §18-10R-1, §18-10R-2, §18-10R-3, §18-10R-4, §18-10R-5, §18-10R-6, §18-
3 10R-7, §18-10R-8, §18-10R-9, §18-10R-10, §18-10R-11, §18-10R-12, and §18-10R-13,
4 relating to the Interstate Compact for School Psychologists; stating purpose; defining
5 terms; providing for state and school psychologists' participation in compact; determining
6 home state for active military members and their spouses; providing for discipline by the
7 state; establishment of school psychologist interstate licensure compact commission and
8 providing its powers and duties; facilitating information exchange; providing for oversight,
9 dispute resolution and enforcement; providing an effective date, and process for
10 withdrawal of a state and amendments; providing for construction and severability; and
11 providing for consistent state laws with the compact superseding any laws in conflict with
12 the compact.

Be it enacted by the Legislature of West Virginia:

ARTICLE 10R. INTERSTATE COMPACT FOR SCHOOL PSYCHOLOGISTS.

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

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

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

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

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

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

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

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

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

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

§18-10R-2. Definitions.

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

3 “Adverse Action” means disciplinary action or encumbrance imposed on a license by a
4 state licensing authority.

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

10 “Commissioner” means the individual appointed by a member state to serve as the
11 representative to the commission for that member state.

12 “Compact” means this School Psychologist Interstate Licensure Compact.

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

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

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

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

24 “Executive committee” means the commission’s chair, vice chair, secretary and treasurer
25 and any other commissioners as may be determined by commission rule or bylaw.

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

29 “Home state” means the member state that issued the home state license to the licensee
30 and is the licensee’s primary state of practice.

31 “Home state License” means the license that is not an encumbered license issued by the
32 home state to provide school psychological services.

33 “School Psychological Services” means academic, mental and behavioral health services
34 including assessment, prevention, consultation and collaboration, intervention, and evaluation

35 provided by a school psychologist in a school, as outlined in applicable professional standards as
36 determined by commission rule.

37 "License" means a current license, certification, or other authorization granted by a
38 member state's licensing authority that permits an individual to provide school psychological
39 services.

40 "Licensee" means an individual who holds a license from a member state to provide
41 school psychological services.

42 "Licensing Authority" means a member state's regulatory body responsible for issuing
43 licenses or otherwise overseeing the practice of school psychology.

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

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

49 "Practice of School Psychology" means the delivery school psychological services.

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

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

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

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

65 “Remote State” means a member state other than the home state where a licensee holds
66 a license through the compact.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 Each member state shall grant renewal of the equivalent license to a licensee who satisfies the
24 criteria of §18-10R-4(b) of this code.

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

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

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

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

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

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

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

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

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

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

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

3 (a) The licensee's permanent residence;

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

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

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

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

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

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

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

7 (b) Membership, Voting, and Meetings.

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

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

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

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

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

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

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

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

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

26 (1) Establishing the fiscal year of the commission;

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

28 (3) Establishing and amending rules and bylaws;

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

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

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

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

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

- 40 (9) Purchasing and maintaining insurance and bonds;
- 41 (10) Borrowing, accepting, or contracting for services of personnel, including, but not
42 limited to, employees of a member state;
- 43 (11) Conducting an annual financial review;
- 44 (12) Hiring employees, electing or appointing officers, fixing compensation, defining
45 duties, granting such individuals appropriate authority to carry out the purposes of the compact,
46 and establishing the commission's personnel policies and programs relating to conflicts of
47 interest, qualifications of personnel, and other related personnel matters;
- 48 (13) Assessing and collecting fees;
- 49 (14) Accepting any and all appropriate gifts, donations, grants of money, other sources of
50 revenue, equipment, supplies, materials, and services, and receiving, using, and disposing of the
51 same; provided that at all times the commission shall avoid any appearance of impropriety and/or
52 conflict of interest;
- 53 (15) Leasing, purchasing, retaining, owning, holding, improving, or using any property,
54 real, personal, or mixed, or any undivided interest therein;
- 55 (16) Selling, conveying, mortgaging, pledging, leasing, exchanging, abandoning, or
56 otherwise disposing of any property real, personal, or mixed;
- 57 (17) Establishing a budget and making expenditures;
- 58 (18) Borrowing money;
- 59 (19) Appointing committees, including standing committees, composed of members, state
60 regulators, state legislators or their representatives, and consumer representatives, and such
61 other interested persons as may be designated in this compact and the bylaws;
- 62 (20) Providing and receiving information from, and cooperating with, law enforcement
63 agencies;
- 64 (21) Establishing and electing an executive committee, including a chair and a vice chair;

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

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

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

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

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

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

78 (4) Preparing and recommending the budget;

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

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

82 (7) Establishing additional committees as necessary;

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

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

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

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

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

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

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

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

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

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

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

105 (h) Meetings of the commission.

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

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

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

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

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

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

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

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

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

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

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

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

131 (8) Investigative records compiled for law enforcement purposes;

132 (9) Information related to any investigative reports prepared by or on behalf of or for use
133 of the commission or other committee charged with responsibility of investigation or determination
134 of compliance issues pursuant to the compact;

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

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

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

140 (k) The commission shall keep minutes that fully and clearly describe all matters discussed
141 in a meeting and shall provide a full and accurate summary of actions taken, and the reasons

142 therefore, including a description of the views expressed. All documents considered in connection
143 with an action shall be identified in such minutes. All minutes and documents of a closed meeting
144 shall remain under seal, subject to release only by a majority vote of the commission or order of
145 a court of competent jurisdiction.

146 (l) Financing of the commission.

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

149 (2) The commission may accept any and all appropriate revenue sources as provided in
150 subsection subdivision 14, subsection (c) of this section.

151 (3) The commission may levy on and collect an annual assessment from each member
152 state and impose fees on licensees practicing in the member states under an equivalent license
153 to cover the cost of the operations and activities of the commission and its staff, which must be in
154 a total amount sufficient to cover its annual budget as approved each year for which revenue is
155 not provided by other sources. The aggregate annual assessment amount for member states
156 shall be allocated based upon a formula that the commission shall promulgate by rule.

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

160 (5) The commission shall keep accurate accounts of all receipts and disbursements. The
161 receipts and disbursements of the commission shall be subject to the financial review and
162 accounting procedures established under its bylaws. However, all receipts and disbursements of
163 funds handled by the commission shall be subject to an annual financial review by a certified or
164 licensed public accountant, and the report of the financial review shall be included in and become
165 part of the annual report of the commission.

166 (j) Qualified Immunity, Defense, and Indemnification.

167 (1) The members, officers, executive director, employees and representatives of the
168 commission shall be immune from suit and liability, both personally and in their official capacity,
169 for any claim for damage to or loss of property or personal injury or other civil liability caused by
170 or arising out of any actual or alleged act, error, or omission that occurred, or that the person
171 against whom the claim is made had a reasonable basis for believing occurred within the scope
172 of commission employment, duties or responsibilities; provided that nothing in this subdivision
173 shall be construed to protect any such person from suit or liability for any damage, loss, injury, or
174 liability caused by the intentional or willful or wanton misconduct of that person. The procurement
175 of insurance of any type by the commission shall not in any way compromise or limit the immunity
176 granted hereunder.

177 (2) The Commission shall defend any member, officer, executive director, employee, and
178 representative of the Commission in any civil action seeking to impose liability arising out of any
179 actual or alleged act, error, or omission that occurred within the scope of commission
180 employment, duties, or responsibilities, or as determined by the commission that the person
181 against whom the claim is made had a reasonable basis for believing occurred within the scope
182 of commission employment, duties, or responsibilities: *Provided*, That nothing in this subdivision
183 shall be construed to prohibit that person from retaining their own counsel at their own expense:
184 *Provided, however*, that the actual or alleged act, error, or omission did not result from that
185 person's intentional or willful or wanton misconduct.

186 (3) The commission shall indemnify and hold harmless any member, officer, executive
187 director, employee, and representative of the commission for the amount of any settlement or
188 judgment obtained against that person arising out of any actual or alleged act, error, or omission
189 that occurred within the scope of commission employment, duties, or responsibilities, or that such
190 person had a reasonable basis for believing occurred within the scope of commission
191 employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission
192 did not result from the intentional or willful or wanton misconduct of that person.

193 (4) Nothing in this section shall be construed as a limitation on the liability of any licensee
194 for professional malpractice or misconduct, which shall be governed solely by any other applicable
195 state laws.

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

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

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

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

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

7 (1) Identifying information;

8 (2) Licensure data;

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

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

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

14 (2) The presence of investigative information; and

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

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

§18-10R-9. Rulemaking.

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

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

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

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

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

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

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

21 (f) Upon determination that an emergency exists, the commission may consider and adopt
22 an emergency rule with 48 hours' notice, with opportunity to comment, provided that the usual

23 rulemaking procedures shall be retroactively applied to the rule as soon as reasonably possible,
24 in no event later than ninety (90) days after the effective date of the rule. For the purposes of this
25 provision, an emergency rule is one that must be adopted immediately in order to:

- 26 (1) Meet an imminent threat to public health, safety, or welfare.
27 (2) Prevent a loss of commission or member state funds.
28 (3) Meet a deadline for the promulgation of an administrative Rule that is established by
29 federal law or rule; or
30 (4) Protect public health and safety.

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

1 (a) Oversight;

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

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

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

15 (b) Default, Technical Assistance, and Termination;

16 (1) If the commission determines that a member state has defaulted in the performance
17 of its obligations or responsibilities under this compact or the promulgated rules, the commission

18 shall provide written notice to the defaulting state. The notice of default shall describe the default,
19 the proposed means of curing the default, and any other action that the commission may take,
20 and shall offer training and specific technical assistance regarding the default.

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

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

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

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

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

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

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

47 (i) Dispute Resolution;

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

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

53 (j) Enforcement;

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

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

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

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

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

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

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

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

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

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

20 (A) Any state that joins the compact subsequent to the commission's initial adoption of the
21 Rules and bylaws shall be subject to the rules and bylaws as they exist on the date on which the
22 compact becomes law in that state. Any rule that has been previously adopted by the commission
23 shall have the full force and effect of law on the day the compact becomes law in that state.

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

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

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

31 (E) Upon the enactment of a statute withdrawing from this compact, a state shall
32 immediately provide notice of such withdrawal to all licensees within that state. Notwithstanding
33 any subsequent statutory enactment to the contrary, such withdrawing state shall continue to
34 recognize all licenses granted pursuant to this compact for a minimum of six (6) months after the
35 date of such notice of withdrawal.

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

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

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

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

5 (b) The provisions of this compact shall be severable and if any phrase, clause, sentence
6 or provision of this compact is held by a court of competent jurisdiction to be contrary to the
7 constitution of any Member state, a State seeking participation in the compact, or of the United

8 States, or the applicability thereof to any government, agency, person or circumstance is held to
9 be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this
10 compact and the applicability thereof to any other government, agency, person or circumstance
11 shall not be affected thereby.

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

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

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

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

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

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

Steve Harris

.....
Clerk of the House of Delegates

Joe Linn
.....
Clerk of the Senate

2024 MAR 26 P 2:32
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

FILED

Originated in the House of Delegates.

In effect ninety days from passage.

Ben Hunter
.....
Speaker of the House of Delegates

Ch Pelt
.....
President of the Senate

The within is *approved* this the *26th*
Day of *March* 2024.

James Justice
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 21 2024

Time 10:42am