

INTERIM STUDY PROPOSAL 2017-068

1
2 State of Arkansas
3 91st General Assembly
4 Regular Session, 2017

As Engrossed: H3/14/17

A Bill

HOUSE BILL 2015

5
6 By: Representative Baltz

7 Filed with: House Committee on Public Health, Welfare, and Labor
8 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

9
10 AN ACT TO RECOGNIZE THE EMERGENCY MEDICAL SERVICES
11 PERSONNEL LICENSURE INTERSTATE COMPACT; AND FOR OTHER
12 PURPOSES.

13
14
15 **Subtitle**

16 TO RECOGNIZE THE EMERGENCY MEDICAL
17 SERVICES PERSONNEL LICENSURE INTERSTATE
18 COMPACT.

19
20
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22
23 *SECTION 1. Arkansas Code Title 20, Chapter 13, is amended to add an*
24 *additional subchapter to read as follows:*

25
26 SUBCHAPTER 19 – EMS PERSONNEL LICENSURE INTERSTATE COMPACT

27
28 Section 1. PURPOSE.

29 In order to protect the public through verification of competency and
30 ensure accountability for patient care related activities all states license
31 emergency medical services (EMS) personnel, such as emergency medical
32 technicians (EMTs), advanced EMTs and paramedics. This Compact is intended
33 to facilitate the day to day movement of EMS personnel across state
34 boundaries in the performance of their EMS duties as assigned by an
35 appropriate authority and authorize state EMS offices to afford immediate
36 legal recognition to EMS personnel licensed in a member state. This Compact

1 D. "Certification" means: the successful verification of entry-level
2 cognitive and psychomotor competency using a reliable, validated, and legally
3 defensible examination.

4 E. "Commission" means: the national administrative body of which all
5 states that have enacted the compact are members.

6 F. "Emergency Medical Technician (EMT)" means: an individual licensed
7 with cognitive knowledge and a scope of practice that corresponds to that
8 level in the National EMS Education Standards and National EMS Scope of
9 Practice Model.

10 G. "Home State" means: a member state where an individual is licensed
11 to practice emergency medical services.

12 H. "License" means: the authorization by a state for an individual to
13 practice as an EMT, AEMT, paramedic, or a level in between EMT and paramedic.

14 I. "Medical Director" means: a physician licensed in a member state
15 who is accountable for the care delivered by EMS personnel.

16 J. "Member State" means: a state that has enacted this compact.

17 K. "Privilege to Practice" means: an individual's authority to
18 deliver emergency medical services in remote states as authorized under this
19 compact.

20 L. "Paramedic" means: an individual licensed with cognitive knowledge
21 and a scope of practice that corresponds to that level in the National EMS
22 Education Standards and National EMS Scope of Practice Model.

23 M. "Remote State" means: a member state in which an individual is not
24 licensed.

25 N. "Restricted" means: the outcome of an adverse action that limits a
26 license or the privilege to practice.

27 O. "Rule" means: a written statement by the Interstate Commission
28 promulgated pursuant to Section 12 of this compact that is of general
29 applicability; implements, interprets, or prescribes a policy or provision of
30 the compact; or is an organizational, procedural, or practice requirement of
31 the Commission and has the force and effect of statutory law in a member
32 state and includes the amendment, repeal, or suspension of an existing rule.

33 P. "Scope of Practice" means: defined parameters of various duties or
34 services that may be provided by an individual with specific credentials.
35 Whether regulated by rule, statute, or court decision, it tends to represent
36 the limits of services an individual may perform.

1 promulgated in the rules of the Commission; and

2 5. Complies with the rules of the Commission.

3
4 Section 4. COMPACT PRIVILEGE TO PRACTICE.

5 A. Member states shall recognize the privilege to practice of an
6 individual licensed in another member state that is in conformance with
7 Section 3.

8 B. To exercise the privilege to practice under the terms and
9 provisions of this compact, an individual must:

10 1. Be at least eighteen years of age;

11 2. Possess a current unrestricted license in a member state as
12 an EMT, AEMT, paramedic, or state recognized and licensed level with a scope
13 of practice and authority between EMT and paramedic; and

14 3. Practice under the supervision of a medical director.

15 C. An individual providing patient care in a remote state under the
16 privilege to practice shall function within the scope of practice authorized
17 by the home state unless and until modified by an appropriate authority in
18 the remote state as may be defined in the rules of the Commission.

19 D. Except as provided in Section 4 subsection C, an individual
20 practicing in a remote state will be subject to the remote state's authority
21 and laws. A remote state may, in accordance with due process and that state's
22 laws, restrict, suspend, or revoke an individual's privilege to practice in
23 the remote state and may take any other necessary actions to protect the
24 health and safety of its citizens. If a remote state takes action it shall
25 promptly notify the home state and the Commission.

26 E. If an individual's license in any home state is restricted or
27 suspended, the individual shall not be eligible to practice in a remote state
28 under the privilege to practice until the individual's home state license is
29 restored.

30 F. If an individual's privilege to practice in any remote state is
31 restricted, suspended, or revoked the individual shall not be eligible to
32 practice in any remote state until the individual's privilege to practice is
33 restored.

34
35 Section 5. CONDITIONS OF PRACTICE IN A REMOTE STATE.

36 An individual may practice in a remote state under a privilege to

1 Section remain subject to the Adverse Actions provisions of Section VIII.

2
3 Section 8. ADVERSE ACTIONS.

4 A. A home state shall have exclusive power to impose adverse action
5 against an individual's license issued by the home state.

6 B. If an individual's license in any home state is restricted or
7 suspended, the individual shall not be eligible to practice in a remote state
8 under the privilege to practice until the individual's home state license is
9 restored.

10 1. All home state adverse action orders shall include a
11 statement that the individual's compact privileges are inactive. The order
12 may allow the individual to practice in remote states with prior written
13 authorization from both the home state and remote state's EMS authority.

14 2. An individual currently subject to adverse action in the home
15 state shall not practice in any remote state without prior written
16 authorization from both the home state and remote state's EMS authority.

17 C. A member state shall report adverse actions and any occurrences
18 that the individual's compact privileges are restricted, suspended, or
19 revoked to the Commission in accordance with the rules of the Commission.

20 D. A remote state may take adverse action on an individual's privilege
21 to practice within that state.

22 E. Any member state may take adverse action against an individual's
23 privilege to practice in that state based on the factual findings of another
24 member state, so long as each state follows its own procedures for imposing
25 such adverse action.

26 F. A home state's EMS authority shall investigate and take appropriate
27 action with respect to reported conduct in a remote state as it would if such
28 conduct had occurred within the home state. In such cases, the home state's
29 law shall control in determining the appropriate adverse action.

30 G. Nothing in this Compact shall override a member state's decision
31 that participation in an alternative program may be used in lieu of adverse
32 action and that such participation shall remain non-public if required by the
33 member state's laws. Member states must require individuals who enter any
34 alternative programs to agree not to practice in any other member state
35 during the term of the alternative program without prior authorization from
36 such other member state.

1 may be removed or suspended from office as provided by the law of the state
2 from which the delegate is appointed. Any vacancy occurring in the
3 Commission shall be filled in accordance with the laws of the member state in
4 which the vacancy exists. In the event that more than one board, office, or
5 other agency with the legislative mandate to license EMS personnel at and
6 above the level of EMT exists, the Governor of the state will determine which
7 entity will be responsible for assigning the delegate.

8 2. Each delegate shall be entitled to one (1) vote with regard
9 to the promulgation of rules and creation of bylaws and shall otherwise have
10 an opportunity to participate in the business and affairs of the Commission.
11 A delegate shall vote in person or by such other means as provided in the
12 bylaws. The bylaws may provide for delegates' participation in meetings by
13 telephone or other means of communication.

14 3. The Commission shall meet at least once during each calendar
15 year. Additional meetings shall be held as set forth in the bylaws.

16 4. All meetings shall be open to the public, and public notice
17 of meetings shall be given in the same manner as required under the
18 rulemaking provisions in Section XII.

19 5. The Commission may convene in a closed, non-public meeting if
20 the Commission must discuss:

21 a. Non-compliance of a member state with its obligations
22 under the Compact;

23 b. The employment, compensation, discipline or other
24 personnel matters, practices or procedures related to specific employees or
25 other matters related to the Commission's internal personnel practices and
26 procedures;

27 c. Current, threatened, or reasonably anticipated
28 litigation;

29 d. Negotiation of contracts for the purchase or sale of
30 goods, services, or real estate;

31 e. Accusing any person of a crime or formally censuring
32 any person;

33 f. Disclosure of trade secrets or commercial or financial
34 information that is privileged or confidential;

35 g. Disclosure of information of a personal nature where
36 disclosure would constitute a clearly unwarranted invasion of personal

1 soon as practicable, the Commission must make public a copy of the vote to
2 close the meeting revealing the vote of each member with no proxy votes
3 allowed;

4 4. Establishing the titles, duties and authority, and reasonable
5 procedures for the election of the officers of the Commission;

6 5. Providing reasonable standards and procedures for the
7 establishment of the personnel policies and programs of the Commission.
8 Notwithstanding any civil service or other similar laws of any member state,
9 the bylaws shall exclusively govern the personnel policies and programs of
10 the Commission;

11 6. Promulgating a code of ethics to address permissible and
12 prohibited activities of Commission members and employees;

13 7. Providing a mechanism for winding up the operations of the
14 Commission and the equitable disposition of any surplus funds that may exist
15 after the termination of the Compact after the payment and/or reserving of
16 all of its debts and obligations;

17 8. The Commission shall publish its bylaws and file a copy
18 thereof, and a copy of any amendment thereto, with the appropriate agency or
19 officer in each of the member states, if any.

20 9. The Commission shall maintain its financial records in
21 accordance with the bylaws.

22 10. The Commission shall meet and take such actions as are
23 consistent with the provisions of this Compact and the bylaws.

24 D. The Commission shall have the following powers:

25 1. The authority to promulgate uniform rules to facilitate and
26 coordinate implementation and administration of this Compact. The rules shall
27 have the force and effect of law and shall be binding in all member states;

28 2. To bring and prosecute legal proceedings or actions in the
29 name of the Commission, provided that the standing of any state EMS authority
30 or other regulatory body responsible for EMS personnel licensure to sue or be
31 sued under applicable law shall not be affected;

32 3. To purchase and maintain insurance and bonds;

33 4. To borrow, accept, or contract for services of personnel,
34 including, but not limited to, employees of a member state;

35 5. To hire employees, elect or appoint officers, fix
36 compensation, define duties, grant such individuals appropriate authority to

1 for which revenue is not provided by other sources. The aggregate annual
2 assessment amount shall be allocated based upon a formula to be determined by
3 the Commission, which shall promulgate a rule binding upon all member states.

4 4. The Commission shall not incur obligations of any kind prior
5 to securing the funds adequate to meet the same; nor shall the Commission
6 pledge the credit of any of the member states, except by and with the
7 authority of the member state.

8 5. The Commission shall keep accurate accounts of all receipts
9 and disbursements. The receipts and disbursements of the Commission shall be
10 subject to the audit and accounting procedures established under its bylaws.
11 However, all receipts and disbursements of funds handled by the Commission
12 shall be audited yearly by a certified or licensed public accountant, and the
13 report of the audit shall be included in and become part of the annual report
14 of the Commission.

15 F. Qualified Immunity, Defense, and Indemnification

16 1. The members, officers, executive director, employees and
17 representatives of the Commission shall be immune from suit and liability,
18 either personally or in their official capacity, for any claim for damage to
19 or loss of property or personal injury or other civil liability caused by or
20 arising out of any actual or alleged act, error or omission that occurred, or
21 that the person against whom the claim is made had a reasonable basis for
22 believing occurred within the scope of Commission employment, duties or
23 responsibilities; provided that nothing in this paragraph shall be construed
24 to protect any such person from suit and/or liability for any damage, loss,
25 injury, or liability caused by the intentional or willful or wanton
26 misconduct of that person.

27 2. The Commission shall defend any member, officer, executive
28 director, employee or representative of the Commission in any civil action
29 seeking to impose liability arising out of any actual or alleged act, error,
30 or omission that occurred within the scope of Commission employment, duties,
31 or responsibilities, or that the person against whom the claim is made had a
32 reasonable basis for believing occurred within the scope of Commission
33 employment, duties, or responsibilities; provided that nothing herein shall
34 be construed to prohibit that person from retaining his or her own counsel;
35 and provided further, that the actual or alleged act, error, or omission did
36 not result from that person's intentional or willful or wanton misconduct.

1 express permission of the contributing state.

2 E. Any information submitted to the coordinated database that is
3 subsequently required to be expunged by the laws of the member state
4 contributing the information shall be removed from the coordinated database.

5
6 Section 12. RULEMAKING

7 A. The Commission shall exercise its rulemaking powers pursuant to the
8 criteria set forth in this Section and the rules adopted thereunder. Rules
9 and amendments shall become binding as of the date specified in each rule or
10 amendment.

11 B. If a majority of the legislatures of the member states rejects a
12 rule, by enactment of a statute or resolution in the same manner used to
13 adopt the Compact, then such rule shall have no further force and effect in
14 any member state.

15 C. Rules or amendments to the rules shall be adopted at a regular or
16 special meeting of the Commission.

17 D. Prior to promulgation and adoption of a final rule or rules by the
18 Commission, and at least sixty (60) days in advance of the meeting at which
19 the rule will be considered and voted upon, the Commission shall file a
20 Notice of Proposed Rulemaking:

21 1. On the website of the Commission; and

22 2. On the website of each member state EMS authority or the
23 publication in which each state would otherwise publish proposed rules.

24 E. The Notice of Proposed Rulemaking shall include:

25 1. The proposed time, date, and location of the meeting in which
26 the rule will be considered and voted upon;

27 2. The text of the proposed rule or amendment and the reason for
28 the proposed rule;

29 3. A request for comments on the proposed rule from any
30 interested person; and

31 4. The manner in which interested persons may submit notice to
32 the Commission of their intention to attend the public hearing and any
33 written comments.

34 F. Prior to adoption of a proposed rule, the Commission shall allow
35 persons to submit written data, facts, opinions, and arguments, which shall
36 be made available to the public.

1 in the Compact and in this section shall be retroactively applied to the rule
 2 as soon as reasonably possible, in no event later than ninety (90) days after
 3 the effective date of the rule. For the purposes of this provision, an
 4 emergency rule is one that must be adopted immediately in order to:

- 5 1. Meet an imminent threat to public health, safety, or welfare;
- 6 2. Prevent a loss of Commission or member state funds;
- 7 3. Meet a deadline for the promulgation of an administrative
 8 rule that is established by federal law or rule; or
- 9 4. Protect public health and safety.

10 M. The Commission or an authorized committee of the Commission may
 11 direct revisions to a previously adopted rule or amendment for purposes of
 12 correcting typographical errors, errors in format, errors in consistency, or
 13 grammatical errors. Public notice of any revisions shall be posted on the
 14 website of the Commission. The revision shall be subject to challenge by any
 15 person for a period of thirty (30) days after posting. The revision may be
 16 challenged only on grounds that the revision results in a material change to
 17 a rule. A challenge shall be made in writing, and delivered to the chair of
 18 the Commission prior to the end of the notice period. If no challenge is
 19 made, the revision will take effect without further action. If the revision
 20 is challenged, the revision may not take effect without the approval of the
 21 Commission.

22
 23 Section 13. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

24 A. Oversight

25 1. The executive, legislative, and judicial branches of state
 26 government in each member state shall enforce this compact and take all
 27 actions necessary and appropriate to effectuate the compact's purposes and
 28 intent. The provisions of this compact and the rules promulgated hereunder
 29 shall have standing as statutory law.

30 2. All courts shall take judicial notice of the compact and the
 31 rules in any judicial or administrative proceeding in a member state
 32 pertaining to the subject matter of this compact which may affect the powers,
 33 responsibilities or actions of the Commission.

34 3. The Commission shall be entitled to receive service of
 35 process in any such proceeding, and shall have standing to intervene in such
 36 a proceeding for all purposes. Failure to provide service of process to the

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

4 2. The Commission shall promulgate a rule providing for both
5 mediation and binding dispute resolution for disputes as appropriate.

6 D. Enforcement

7 1. The Commission, in the reasonable exercise of its discretion,
8 shall enforce the provisions and rules of this compact.

9 2. By majority vote, the Commission may initiate legal action in
10 the United States District Court for the District of Columbia or the federal
11 district where the Commission has its principal offices against a member
12 state in default to enforce compliance with the provisions of the compact and
13 its promulgated rules and bylaws. The relief sought may include both
14 injunctive relief and damages. In the event judicial enforcement is
15 necessary, the prevailing member shall be awarded all costs of such
16 litigation, including reasonable attorney's fees.

17 3. The remedies herein shall not be the exclusive remedies of
18 the Commission. The Commission may pursue any other remedies available under
19 federal or state law.

20
21 Section 14. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR EMS
22 PERSONNEL PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

23 A. The compact shall come into effect on the date on which the compact
24 statute is enacted into law in the tenth member state. The provisions, which
25 become effective at that time, shall be limited to the powers granted to the
26 Commission relating to assembly and the promulgation of rules. Thereafter,
27 the Commission shall meet and exercise rulemaking powers necessary to the
28 implementation and administration of the compact.

29 B. Any state that joins the compact subsequent to the Commission's
30 initial adoption of the rules shall be subject to the rules as they exist on
31 the date on which the compact becomes law in that state. Any rule that has
32 been previously adopted by the Commission shall have the full force and
33 effect of law on the day the compact becomes law in that state.

34 C. Any member state may withdraw from this compact by enacting a
35 statute repealing the same.

36 1. A member state's withdrawal shall not take effect until six